

## Agency 19

# Governmental Ethics Commission

### **Editor's Note:**

Effective July 1, 1998, the Kansas commission on governmental standards and conduct was redesignated as the governmental ethics commission. Rules and regulations of the Kansas commission on governmental standards and conduct were by law specifically retained in force and effect and became the rules and regulations of the governmental ethics commission until amended or revoked by the successor commission.

### **Editor's Note:**

Effective July 1, 1991, the Kansas commission on governmental standards and conduct was created to replace the Kansas public disclosure commission. Rules and regulations of the Kansas public disclosure commission were by law specifically retained in force and effect and became the rules and regulations of the Kansas commission on governmental standards and conduct until amended or revoked by the successor commission.

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### **Article 1.—GENERAL PROVISIONS**

**19-1-1. Definitions.** (a) “Advisory opinion” means a formal opinion issued by the commission as provided by relevant law.

(b) “Chairperson” means the chairperson of the commission appointed by the governor, or in the event of the chairperson’s absence, the vice-chairperson or any other commissioner as may be designated by the remaining members of the commission.

(c) “Commission” means the Kansas commission on governmental standards and conduct created by relevant law, or as the context indicates, any lesser number of members.

(d) “Commission’s attorney” means an attorney employed by the commission to assist the commission in carrying out the provisions of relevant law.

(e) “Executive director” means the executive director appointed by the commission.

(f) “Formal record” means all the filings and submittals in a matter or proceeding and all notices or agency orders initiating the matter or proceeding. If a hearing is held, the formal record shall include:

- (1) The designation of the presiding member;
- (2) The transcript of hearing if one is kept;
- (3) All exhibits received in evidence;
- (4) All exhibits offered but not received in evidence;
- (5) All offers of proofs, motions, stipulations, subpoenas, proofs of service, and the corresponding determinations made by the commission;
- (6) Certifications to the commission; and
- (7) Anything else upon which action of the presiding member or commission may be based will constitute a formal record. This does not include any proposed testimony or exhibits or the work product of the commission or its staff not offered or received in evidence.

(g) “Hearing commissioners” means the commissioners designated by the chairperson to conduct a pre-hearing, hearing or rehearing, or to proceed with any matter before the commission.

(h) “Party” means the complainant, respon-

dent, and any other person authorized by the commission to intervene in any proceeding.

(i) “Petitioner” means a person seeking relief, including an advisory opinion, and not otherwise designated in this section.

(j) “Pleading” means any application, complaint, petition, answer, reply, or other similar document filed with the commission.

(k) “Presiding member” means the chairperson or any member of the commission, duly designated to preside at hearings, conferences, or other proceedings.

(l) “Relevant law” means K.S.A. 25-4142 et seq. and K.S.A. 46-215 et seq., including related amendments, supplemental legislation, and rules and regulations. In addition, in the context of requests for advisory opinions and related matters, “relevant law” shall include K.S.A. 75-4301 et seq., including related amendments, supplemental legislation, and rules and regulations.

(m) “Respondent” means any person against whom a complaint has been filed alleging an unlawful practice within the meaning of relevant law.

(n) “Treasurer” means an acting treasurer duly appointed under relevant law, and the treasurer of record at any particular point in time irrespective of whether the individual still serves as the treasurer. Only individuals, as opposed to non-natural persons, may serve as treasurers. (Authorized by K.S.A. 1991 Supp. 25-4119a and 46-253; implementing K.S.A. 1991 Supp. 25-4143 and K.S.A. 46-215; effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; amended, E-77-47, Sept. 30, 1976; effective Feb. 15, 1977; amended May 1, 1980; amended May 1, 1982; amended June 22, 1992.)

**19-1-2. Construction.** These rules shall be liberally construed to accomplish the purposes of relevant law and the policies of the commission including the just and expeditious determination of the issues presented. (Authorized by K.S.A. 1976 Supp. 25-4119a, 46-253; effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977.)

**19-1-3.** (Authorized by K.S.A. 1979 Supp. 25-4119a, 46-253; effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; revoked May 1, 1980.)

**19-1-4. Appointment of acting executive director.** Whenever it is necessary to appoint an acting executive director without delay, the chairperson may make such appointment, subject to the ratification or rejection of the commission at the next meeting. The rejection of such appointment shall not affect any of the actions of the acting executive director in the interim. (Authorized by K.S.A. 1979 Supp. 25-4119a, 46-253; effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980.)

**19-1-5. Pleadings or other documents filed with the commission.** (a) General. All pleadings or other documents shall be mailed first-class with postage prepaid or delivered personally to the office of the commission. The pleadings or other documents shall clearly designate the file number, if any, designated by the commission; state a document title where appropriate; indicate their purpose, identify any commission document to which they are in response, and state the name, address and title of the party or petitioner.

(b) Noncompliance and rejection. In any proceeding when the commission finds a pleading or other document does not comply with these rules, the commission shall:

(1) decline to accept the document for filing and return it, or

(2) accept it for filing and make procedural corrections, or

(3) accept it for filing and advise the person tendering it of the deficiency and require that the deficiency be corrected.

(c) The commission may order any redundant, immaterial, impertinent, or scandalous matter stricken from any document filed.

(d) Signature and effect. Each pleading or other document shall be signed by the petitioner or interested party or by his or her attorney, and shall show the office and post-office address. The signature of the person on any pleading or document filed constitutes a certificate that the person:

(1) has read it, and knows the contents;

(2) executing the pleading or other document, if executed in any representative capacity, has been subscribed and executed in the capacity

specified upon it with full power and authority so to do;

(3) believes the contents to be true as stated. (Authorized by K.S.A. 1980 Supp. 25-4119a, 46-253; implementing K.S.A. 1980 Supp. 25-4121, 46-255; effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980; amended May 1, 1981.)

**19-1-6. Copies of pleadings or other documents.** The petitioner or party filing any pleading or other document shall file the original thereof with the commission. The commission may require the filing of such additional copies as it may need or desire. (Authorized by K.S.A. 1979 Supp. 25-4119a, 46-253; effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980.)

**19-1-7.** (Authorized by K.S.A. 1979 Supp. 25-4119a, 46-253; effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; revoked May 1, 1980.)

**19-1-8. Service.** (a) Service of an original complaint, a notice of hearing, five (5) and thirty (30) day notices pursuant to 1981 Kansas Session Laws, Chapter 171, Sec. 1 *et seq.*, and Sec. 42 *et seq.*, a civil penalty assessment order, and a finding of fact and report shall be by certified mail, return receipt requested. The notice will be mailed to the person's principal residence, principal place of business or any other address as appears on any document filed pursuant to relevant law. Except as otherwise provided by relevant law, the commission shall serve other required orders, notices and documents by first-class mail with postage prepaid. Service may be in person.

(b) All pleadings or other documents shall be served upon all petitioners or parties in the proceeding by the one filing the same on the date when filed or tendered for filing with the commission. This service shall be made by delivering in person or by mailing first class, properly addressed with postage prepaid, copies to each petitioner or party. An original complaint shall be served on the respondent by the commission.

(c) When any petitioner or party is represented by an attorney who has entered a general entry of appearance, subsequent service shall be upon this attorney.

(d) The date of service shall be the day when the pleading or other document served is depos-

ited in the United States mail or is delivered in person, except as provided in K.A.R. 19-1-9(a). When service is by certified mail, return receipt requested, the date of service shall be the date of delivery shown on the return receipt. A certificate of service shall be attached to the original of each pleading or other document filed, except those originating with the commission. (Authorized by and implementing K.S.A. 25-4119a, 46-253; effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; amended, E-77-47, Sep. 30, 1976; effective Feb. 15, 1977; amended May 1, 1980; amended May 1, 1982.)

**19-1-9. Time.** (a) Timely filing required. Reports or documents required or permitted to be filed under K.A.R. 19-1 to K.A.R. 19-8, inclusive, must be received for filing at the commission's office within the time limits, if any, for such filing. The date of receipt at the office of the commission and not the date of deposit in the mails is determinative.

(b) Computation of time. Except as otherwise provided by law, in computing any period of time prescribed or allowed, the date of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is Saturday, Sunday, or a "legal holiday" as defined in K.S.A. 60-206, in which event the period shall run until the end of the next day which is neither Saturday, Sunday, nor a legal holiday. A part-day holiday shall be considered as other days and not as a holiday. Intermediate Saturdays, Sundays, and legal holidays shall be included in the computation. (Authorized by K.S.A. 1979 Supp. 25-4119a, 46-253; effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980.)

**19-1-10. Representation.** (a) Appearance in person or by attorney. An individual may appear in his or her own behalf. A member of a partnership may represent the partnership, a bona fide officer of a corporation, trust or association may represent the corporation, trust or association in presenting any matter to the commission. A person may be represented by an attorney authorized to practice before the supreme court of Kansas.

(b) Contemptuous conduct. Contemptuous conduct at any hearing shall be ground for exclusion from such hearing. (Authorized by K.S.A. 1979 Supp. 25-4119a, 46-253; effective, E-76-52,

Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980.)

**19-1-11. Commission decisions.** Except as otherwise provided by relevant law, all orders, opinions, or findings of fact issued by the commission shall be signed by the chairperson. The decision of any committee of hearing commissioners shall be by majority vote. A concurring vote of five members of the commission shall be required for any decision of the commission as a whole. (Authorized by and implementing K.S.A. 1991 Supp. 25-4119a and 46-253; effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980; amended May 1, 1982; amended June 22, 1992.)

**19-1-12.** (Authorized by K.S.A. 1979 Supp. 25-4119a, 46-253; effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; revoked May 1, 1980.)

**19-1-13. Alternative procedures.** Upon finding in a specific proceeding that the just and expeditious determination of a matter requires simplification, alteration, or non-application of any or all of K.A.R. 19-1 to K.A.R. 19-8, inclusive, or the adoption of supplemental procedures, the commission or any committee thereof may utilize such alternative procedures as are reasonable and necessary and consistent with the relevant law and which do not jeopardize the rights of any party. Except when alternative procedures are adopted at a prehearing conference, hearing or rehearing with all petitioners or parties or their representatives present, notice of the adoption of alternative procedures shall be served on them. (Authorized by K.S.A. 1979 Supp. 25-4119a, 46-253; effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980.)

## Article 2.—ADVISORY OPINION REQUESTS

**19-2-1.** (Authorized by K.S.A. 1980 Supp. 25-4119a, 46-253, 75-4303a; implementing K.S.A. 1980 Supp. 25-4120, 46-254; effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; revoked May 1, 1981.)

**19-2-2. Advisory opinion.** (a) Each advisory opinion request shall be submitted in writing and shall contain the full name, address, and telephone number of the applicant, a statement of

how the applicant may be subject to relevant law, and a description of the opinion requested in sufficient detail to allow an opinion to be expressed on it.

(b) Only those advisory opinion requests received in the commission's office 10 or more days before the commission's next regularly scheduled commission meeting shall be considered at that meeting, unless the commission finds that a longer or shorter period of time is necessary.

(c) Advisory opinion requests may be amended or withdrawn by the applicant. If the commission finds that the commission lacks jurisdiction, the advisory opinion request shall be denied. If denied, a copy of the order denying issuance of an advisory opinion and stating the grounds for that denial shall be issued by the commission and caused to be served upon the applicant. (Authorized by K.S.A. 2002 Supp. 25-4119a, K.S.A. 46-253, K.S.A. 2002 Supp. 75-4303a; implementing K.S.A. 25-4159, 46-254, K.S.A. 2002 Supp. 75-4303a; effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; amended, E-77-47, Sep. 30, 1976; effective Feb. 15, 1977; amended May 1, 1980; amended May 1, 1982; amended Jan. 23, 2004.)

**19-2-3.** (Authorized by K.S.A. 25-4119a, 46-253, K.S.A. 1981 Supp. 75-4303a; effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; revoked May 1, 1982.)

### Article 3.—INVESTIGATIONS

**19-3-1. Investigation.** The commission may authorize the executive director to investigate any matter required to be reported by any person under the relevant law, or any matter to which the relevant law applies irrespective of whether a civil penalty has been assessed or a complaint has been filed in relation to it. Whenever an investigation does not disclose facts sufficient to warrant further action, the commission may, for good cause, issue to the person or persons investigated a report concerning the findings of the commission. (Authorized by K.S.A. 25-4119a, 46-253; implementing K.S.A. 25-4158, 46-260; effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980; amended May 1, 1982.)

**19-3-2. Reviews and audits.** (a) Reviews and audits may be conducted by the executive director of any matter which is required to be re-

ported or filed under the provisions of relevant law. Such reviews and audits shall employ generally accepted auditing standards and provisions as adapted to relevant law. Such reviews and audits may include:

(1) identification of persons required to file statements, reports or other documents;

(2) desk review of filed statements, reports and other documents;

(3) review or confirmation of receipts, expenditures, gifts, honoraria or payments; and

(4) audits of records and accounts required to be maintained or to be made available to the commission.

(b) If at the conclusion of any review or audit there appear to be material errors or omissions in any statement, report or other document, such action as is provided by relevant law shall be taken by the executive director in order to assure their correction. This action shall be reported by the executive director to the commission. A report on each completed audit shall be prepared by the executive director for the commission. A copy of the memorandum shall be issued by the commission to the person audited. (Authorized by and implementing K.S.A. 1991 Supp. 25-4119a, 46-253; effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980; amended June 22, 1992.)

**19-3-3. Preliminary inquiry.** Whenever any matter is brought to the attention of a member of the commission or the executive director which appears to raise an issue of a violation of the relevant law, the executive director is authorized to conduct a preliminary inquiry on the issue of whether there are facts sufficient to support the appearance of a violation. At the conclusion of a preliminary inquiry, the executive director shall report to the commission. The commission shall thereafter determine whether further investigation is required. (Authorized by K.S.A. 25-4119a, 46-253; implementing K.S.A. 25-4158, 46-260; effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980; amended May 1, 1982.)

### Article 4.—NONCOMPLIANCE WITH FILING PROVISIONS

**19-4-1. Campaign finance notice of failure to file and notice of errors or omissions.**

(a) The executive director shall, as soon as practicable, serve notice as provided in K.A.R. 19-1-8



on any treasurer who has failed to file a receipts and expenditures report on the due date. A copy of the notice shall be promptly transferred to the office of the secretary of state for inclusion in the public record of the person or committee the treasurer represents and shall also be sent to the appropriate candidate or chairperson by first class mail. Any treasurer shall, within five (5) days of the date of service, file the required report with the office of the secretary of state.

(b) The executive director shall, as soon as practicable, serve notice on any treasurer whose receipts and expenditures report contains material errors or omissions. A copy of the notice shall be promptly transferred to the office of the secretary of state for inclusion in the public record of the person or committee the treasurer represents and shall also be sent to the appropriate candidate or chairperson by first class mail. Any treasurer shall, within thirty (30) days of the date of service, file an amended report correcting the material errors or omissions with the office of the secretary of state. The executive director may serve additional notices on any treasurer concerning these reports or amendments. The procedures for original notices shall control the process in regard to additional notices.

(c) Upon service of this notice, the treasurer may contact the executive director for guidance or clarification concerning the material error or omission. If substantial issues remain unresolved after that conference, the treasurer may, within ten (10) days, request a hearing before the commission concerning the material errors or omissions. This hearing shall be conducted pursuant to K.A.R. 19-7-1 through 19-7-16, to the extent that the section is applicable, at the next regularly scheduled commission meeting unless a continuance is granted by the chairperson. Notice of the date of hearing shall be served on the treasurer. The determination of the hearing commissioners shall be final. Failure to request the hearing or failure to attend the hearing without just cause shall constitute an admission of the validity of the determination of the material errors or omissions.

(d) The executive director may, upon the filing by a treasurer of a report as required by this section, notify the office of the secretary of state that the treasurer has complied with the requirements of any notice served upon the treasurer. This notice shall be included in the public record of the person or committee the treasurer represents.

This notice shall not be construed as affecting any matter other than the matter to which it is addressed.

(e) In any case where a complaint may be filed, notice provided for by this section is not a prerequisite for pursuing a complaint. (Authorized by K.S.A. 25-4119a; implementing K.S.A. 25-4148; effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; amended, E-77-47, Sep. 30, 1976; effective Feb. 15, 1977; amended May 1, 1980; amended May 1, 1981; amended May 1, 1982.)

**19-4-2. Notice on other statements, reports, or documents.** As soon as practicable, notice may be filed by the executive director as provided in K.A.R. 19-1-8 on any person who has failed to file on the appropriate date any other statement, report or document required by relevant law. Notice may also be served on any person whose statement, report, or other document or amendments contains material errors or omissions. This notice may include a statement of the right or duty of the person served to amend the statement, report, or other document. In addition, the notice may state that the person may request a hearing under the same circumstances as those set forth in K.A.R. 19-4-1 (c). (Authorized by K.S.A. 1991 Supp. 25-4119a and 46-253; implementing K.S.A. 1991 Supp. 25-4152 and 46-280; effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; amended, E-77-47, Sept. 30, 1976; effective Feb. 15, 1977; amended May 1, 1980; amended May 1, 1982; amended June 22, 1992.)

#### **Article 4a.—CIVIL PENALTY ASSESSMENT**

**19-4a-1. Civil penalty.** (a) In any civil penalty assessment case under relevant law, the filing will be considered timely if deposited in the mail addressed to the office of secretary of state by certified or registered mail on or before the day it is due.

(b) Any person who is assessed a civil penalty for failing to comply with the registration, filing, and reporting provisions within five (5) days of notice may make written application for a waiver of the penalty within thirty (30) days after receipt of a civil penalty assessment order. Upon receipt of a written application for waiver, the commission shall schedule a public hearing within thirty (30) days in order to receive an explanation from

the person as to why the document was not filed in a timely manner. Upon a finding of good cause, the commission may waive at any time any imposed civil penalty.

(c) If a person fails to pay a civil penalty within thirty (30) days of the final date on which a request for a waiver can be made, the commission shall forward this information to the attorney general or appropriate county or district attorney for collection.

(d) Civil penalties provided for in this section shall not be deemed the exclusive remedies for violations of relevant law. (Authorized by K.S.A. 25-4119a, 46-253; implementing K.S.A. 25-4152, 46-280; effective May 1, 1980; amended May 1, 1981; amended May 1, 1982.)

#### Article 5.—COMPLAINTS

**19-5-1. Filing of complaint.** (a) Any complainant shall sign and file with the commission a verified complaint in writing. Assistance in drafting and filing complaints shall be available through the commission and its staff.

(b) If a commissioner files a complaint, that commissioner shall be disqualified from the commission's consideration of the complaint. The commissioner shall have the rights, duties, and liabilities of a party to a proceeding thus initiated.

(c) The executive director shall file a complaint following the completion of an investigation conducted pursuant to K.A.R. 19-3, if in the executive director's judgment there is probable cause to believe that a provision of relevant law has been violated.

(d) The executive director shall file a complaint when any person has failed to file any report at the time and in the manner required by relevant law, unless the executive director finds that for good cause a complaint should not be filed. In either case, the executive director shall report to the commission at its next meeting. (Authorized by K.S.A. 25-4119a, 46-253; implementing K.S.A. 25-4160, 46-255; effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; amended, E-77-47, Sep. 30, 1976; effective Feb. 15, 1977; amended May 1, 1980; amended May 1, 1982.)

**19-5-2. Form and content of complaint.** The complaint shall be in writing on a form obtained at the commission office. The original complaint shall be signed and verified before a notary public or other person duly authorized by law to take acknowledgements. A complaint shall contain

the full name and address of the complainant and the full name and address of the respondent. The complaint shall also contain simple and concise statements of the facts or information and belief upon which the allegation of a violation is based. It shall include, where known, the dates and places of occurrences that are described and the names of the participants and the section or sections of law which are alleged to have been violated. (Authorized by K.S.A. 25-4119a, 46-253; implementing K.S.A. 25-4160, 46-255; effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980; amended May 1, 1982.)

**19-5-3. Amendment and withdrawal.** The commission or the complainant shall have the power to reasonably amend the complaint as a matter of right at any time before hearing thereon, and thereafter at the discretion of the presiding member. The respondent and the complainant shall be notified of any such amendment in writing by the commission. The complaint may be withdrawn by the complainant at any time before a final determination of probable cause. After service of a notice of hearing, the complainant may request and the commission shall decide whether or not a complaint may be withdrawn. (Authorized by K.S.A. 1976 Supp. 25-4119a, 46-253; effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977.)

**19-5-4. Service of complaint.** A copy of the complaint and any amendments shall be promptly served by the commission on the respondent. (Authorized by K.S.A. 1976 Supp. 25-4119a, 46-253; effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977.)

**19-5-5. Respondent's review of evidence.** After a verified complaint has been filed with the commission, the respondent shall be entitled to examine and make copies of all evidence in the possession of the commission relating to the complaint; provided that those matters which do not constitute evidence, including the work product of the commission or its staff, need not be provided to the respondent. The materials shall be provided in a timely manner by the executive director, after approval by the commission's attorney. (Authorized by K.S.A. 25-4119a, 46-253; implementing K.S.A. 25-4163, 46-257; effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May

1, 1976; effective Feb. 15, 1977; amended May 1, 1980; amended May 1, 1982.)

**19-5-6. Sufficiency of complaint.** Upon acceptance of a complaint for filing, the commission shall determine whether the complaint alleges facts, directly or upon information and belief, sufficient to constitute a violation of relevant law. If the complaint is found to be sufficient, the commission shall promptly conduct or cause to be conducted a preliminary investigation of the alleged violation. (Authorized by K.S.A. 1976 Supp. 25-4119a, 46-253; effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977.)

**19-5-7. Probable cause.** At the conclusion of a preliminary investigation, the commission shall determine whether probable cause exists for believing the allegations of the complaint. The commission shall give the respondent an opportunity, in person or through counsel, to submit a written statement prior to the determination. If the commission determines that probable cause does exist, the complaint and any amendments thereto shall become a public record and the commission shall fix a time for a hearing in the matter which shall be not more than thirty (30) days after a final determination of probable cause is made. Notice of this determination shall be sent to all parties. (Authorized by K.S.A. 1979 Supp. 25-4119a, 46-253; effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980.)

**19-5-8. Preservation of records.** Books, papers, documents, or records of any form which are relevant to the scope of any investigation as defined in the complaint shall be preserved during the pendency of any proceedings by all parties to the proceedings unless the commission specifically orders otherwise. (Authorized by K.S.A. 1976 Supp. 25-4119a, 46-253; effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977.)

**19-5-9. Dismissal before hearing.** (a) Dismissal. If the commission finds that it lacks jurisdiction or that probable cause does not exist, the complaint shall be dismissed with or without prejudice to the respondent.

(b) Service. When a complaint is dismissed before hearing, the commission shall issue and cause to be served upon each party a copy of the order dismissing the complaint, and stating the grounds

and conditions of such dismissal. (Authorized by K.S.A. 1979 Supp. 25-4119a, 46-253; effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980.)

## **Article 6.—DISCLOSURE AND CONFIDENTIAL PROCEDURES**

**19-6-1. Nondisclosure and public record.** (a) Except as otherwise provided by relevant law and as provided in K.A.R. 19-5-5 all records, complaints, documents, reports filed with, submitted to, or made by the commission; all records and transcripts of investigations and inquiries or hearings of the commission under this act shall be confidential. They shall not be open to inspection by any individual other than a member of the commission, an employee of the commission, or a state officer or employee designated to assist the commission. Nothing contained herein prohibits disclosures as are reasonable and necessary to properly investigate any matter. The following shall be public records and open to public inspection:

(1) a complaint and any amendments after a probable cause determination;

(2) an answer and any amendments with the consent of the respondent;

(3) all matters presented at a public meeting or public hearing; and

(4) all reports of the commission stating a final finding of fact.

(b) A person subject to an investigation or a respondent may release any report or order issued pursuant to K.A.R. 19-3-1 or K.A.R. 19-5-9 and comment thereon. The confidentiality requirements of relevant law shall be observed by all members of the commission, its staff, and all parties to any proceedings. (Authorized by K.S.A. 1979 Supp. 25-4119a, 46-253; effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980.)

**19-6-2. Executive session.** The commission shall meet in executive session to consider those matters required by relevant law to be confidential. Attendance shall be limited to commission members, authorized staff, and such witnesses or other persons and their respective counsel as are allowed by the commission, at the time scheduled for their appearance. Any party may request at any time during the course of a public proceeding that the commission close the



proceedings to the public. For good cause found within the meaning of the relevant law requiring confidentiality, the commission may adjourn into executive session for consideration of those matters required to be kept confidential. The commission upon its own motion for such purpose and upon such a finding may adjourn a public proceeding into an executive session. (Authorized by K.S.A. 1976 Supp. 25-4119a, 46-253; effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977.)

**19-6-3. Communication with commission.** Except as expressly permitted herein, parties and their representatives shall not initiate private communications with a commissioner in regard to the case involved, nor shall commissioners privately communicate with the parties or their representatives or witnesses. (Authorized by K.S.A. 1979 Supp. 25-4119a, 46-253; effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980.)

#### Article 7.—PROCEEDINGS

**19-7-1. Answer.** The respondent against whom a verified complaint, as the same may have been amended, is filed and on whom a notice of hearing has been served, may file a written verified answer in person or through an attorney within ten (10) days from the service of the notice of hearing. The answer shall contain a general or specific denial of each and every allegation of the complaint controverted by the respondent or a denial of any knowledge or information thereof sufficient to form a belief and a statement of any matter constituting a defense. Any allegation in the complaint which is not denied or admitted in the answer in the above manner, shall be deemed admitted. The answer or any part thereof may be amended as a matter of right at any time prior to ten (10) days before a public hearing and thereafter in the discretion of the presiding member on application duly made therefore. The commission may proceed, notwithstanding any failure of the respondent to file an answer within the time provided herein, to hold a hearing at the time and place specified in the notice of hearing and may make its findings of fact and enter its report and order upon the testimony taken at the hearing. (Authorized by K.S.A. 1976 Supp. 25-4119a, 46-253; effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977.)

**19-7-2. Waiver of hearing.** In any proceeding, if the petitioners or parties waive hearing, the commission may dispose of the matter upon the basis of the pleadings or submittals and the investigation. (Authorized by K.S.A. 1979 Supp. 25-4119a, 46-253; effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980.)

**19-7-3. Pre-hearing conference.** (a) General. In order to facilitate the hearing procedure, conferences may be held with the petitioners or between the parties with the approval or at the direction of the presiding member. The meetings are to be held before the presiding member as time and the nature of the proceeding permit. At any such conference, the following may be considered:

- (1) The simplification of the issues.
- (2) The exchange and acceptance of service of exhibits proposed to be offered into evidence.
- (3) The admission or stipulations of facts not remaining in dispute.
- (4) The authenticity of documents which might properly shorten the hearing.
- (5) The limitation of the number of witnesses.
- (6) The discovery or production of evidence.
- (7) Such other matters as may properly be dealt with to aid in expediting the orderly conduct and disposition of the proceeding.

(b) Failure of a participant to attend such conference, after being served with due notice of the time and place thereof, shall constitute a waiver of all objections to the agreements reached, if any, and any order or ruling made at the pre-hearing conference.

(c) Authority of presiding member. The presiding member at any conference may dispose of by ruling, without the consent of the petitioners or parties, any procedural matters which the presiding member is authorized to rule on, and which it appears may appropriately and usefully be disposed of at that stage. The rulings of the presiding member made at the conference shall control the subsequent course of the hearing, unless modified by the hearing commissioners. (Authorized by K.S.A. 1979 Supp. 25-4119a, 46-253; effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980.)

**19-7-4. Hearings; appointment of presiding member.** (a) Who shall conduct, appointment of presiding member. Hearings and rehear-

ings shall be conducted by hearing commissioners designated by the chairperson. Such commissioners may consist of the commission as a whole or a committee thereof. If a committee of hearing commissioners is appointed, it shall consist of not less than three (3) members, not more than a majority shall be of the same political party. One hearing commissioner shall be designated as presiding member by the chairperson. The hearing commissioners and presiding member shall be designated when a final determination of probable cause is made or in a reasonable time thereafter. The hearing commissioners shall have full authority to review and overrule any decision of the presiding member regarding the procedure of the preconference hearing, hearings, and rehearings, including decisions to admit or exclude testimony or other evidence, and to rule upon all motions and objections.

(b) Order of procedure. In hearings, the petitioner, complainant, or other party having the burden of proof, as the case may be, shall open and close, unless otherwise directed by the presiding member. In proceedings where the evidence is peculiarly within the knowledge or control of another participant, the order or presentation may be varied by the presiding member.

(c) Presentation by the petitioners or parties. Petitioners or parties shall have the right of presentation of evidence, cross-examination, objection and motion. The taking of evidence and subsequent proceedings shall proceed with all reasonable diligence and with the least practicable delay. When objections to the admission or exclusion of evidence before the presiding member are made, the grounds relied upon shall be stated briefly. Formal exceptions are unnecessary and shall not be taken to rulings thereon.

(d) Oral examination. Witnesses whose testimony is to be taken shall be sworn, or shall affirm, before their testimony shall be deemed evidence in the proceeding or any questions are put to them.

(e) Fees of witnesses. Witnesses subpoenaed by the commission shall be paid the same fees and mileage as are paid for like services in civil actions in the district court.

(f) Duties of the presiding member. Duties of the presiding member include, but are not limited to, the following:

- (1) administer the oath;
- (2) rule on proof;
- (3) regulate the hearing;

- (4) exclude people from the hearing;
- (5) hold conferences for simplification of issues;
- (6) dispose of procedural requests;
- (7) authorize and set times for filing of briefs;
- (8) grant continuances;
- (9) and take any other action consistent with the purpose of relevant law administered by the commission and consistent with these rules.

(g) Stipulations. Written stipulations may be introduced in evidence, if signed by the persons who seek to be bound by them, or by their attorneys. Oral stipulations may be made on the record at open hearings or rehearings.

(h) Waiver of objections. Any objection not timely made before the presiding member shall be deemed waived unless the failure or neglect to urge such objection shall be excused for good cause by the presiding member.

(i) Continuances and adjournments. The presiding member may postpone a scheduled hearing or continue a hearing from day to day or adjourn it to a later day or to a different place by announcement at the hearing or by appropriate notice to all petitioners or parties.

(j) Burden of proof. Affirmative findings of fact by the commission shall be based on clear and convincing evidence. (Authorized by K.S.A. 1979 Supp. 25-4119a, 46-253; effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980.)

**19-7-5. Subpoenas.** (a) Issuance. Subpoenas for the attendance of witnesses or for the production of evidence, unless directed by the commission upon its own motion, will issue only upon application in writing to the commission or the presiding member, except that during a hearing, such application may be made orally on the record. Such applications shall specify as nearly as may be the general scope of the testimony or evidence sought, including as to evidence, specification as nearly as may be, of the documents desired. The presiding member shall sign subpoenas issued pursuant to this section or when convenient or necessary may direct the executive director to sign subpoenas on the presiding member's behalf.

(b) Service and return. If service of subpoena is made by a sheriff or like officer or his deputy, such service shall be evidenced by his return thereof. If made by another person, such person shall make affidavit thereof, describing the manner in which service was made, and shall return such affidavit. In case of failure to make service,

the reasons for the failure shall be stated on the original subpoena. In making service, a copy of the subpoena shall be exhibited to and left with the person to be served, or to a person of suitable age and discretion residing in that person's dwelling, house, or usual place of abode, or to an agent authorized by appointment or by law to receive service of process for the person to be served. The original subpoena, bearing or accompanied by the authorized return, affidavit or statement, shall be returned forthwith to the office of the commission or, if so directed on the subpoena, to the presiding member before whom the person named in the subpoena is required to appear. (Authorized by K.S.A. 1976 Supp. 25-4119a, 46-253; effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977.)

**19-7-6. Depositions.** The testimony of any witness may be taken by deposition by a party upon approval by the hearing commissioners or the presiding member any time before the hearing is closed. Unless notice is waived, no deposition shall be taken unless at least ten (10) days notice is given to all parties. The procedures utilized in the Kansas Code of Civil Procedure relative to depositions shall be utilized herein except as modified by these rules. No part of a deposition shall constitute a part of the formal record in the proceeding, unless received in evidence. Deponents and the notarial officers taking such depositions shall be entitled to the same fees as are paid for like services in civil actions before the district courts. The fees shall be paid by the party at whose instance the depositions are taken. When the party at whose instance the depositions are taken is a member of the commission or its staff, the commission shall pay such fees. Upon written application requesting deposition by written questions, the presiding member may for good cause permit such a deposition according to such terms and scope as directed by said presiding member. (Authorized by K.S.A. 1980 Supp. 25-4119a, 46-253; implementing K.S.A. 1980 Supp. 25-4124, 46-257; effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1981.)

**19-7-7. Motions.** All motions, except those made at a pre-hearing conference, hearing or re-hearing shall be in writing. The presiding member is authorized to rule upon any motion except a motion made before or during a hearing which would involve or constitute a final determination

of the proceeding or a motion pursuant to K.A.R. 19-1-13. A presiding member may refer any motion to the hearing commissioners or commission for ultimate determination. (Authorized by K.S.A. 1976 Supp. 25-4119a, 46-253; effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977.)

**19-7-8. Evidence.** In any proceeding before the hearing commissioners or a presiding member, relevant and material evidence shall be admissible, but there shall be excluded such evidence as is unduly repetitious or cumulative, or such evidence as is not of any probative value. The presiding member shall rule on the admissibility of all evidence, and shall otherwise control the reception of evidence so as to confine it to the issues in the proceeding. The production of further evidence upon any issue may be ordered. Direct testimony of any witness may be offered as an exhibit, or as prepared written testimony to be copied into the transcript. Cross-examination of the witness presenting such written testimony or exhibit shall proceed at the hearing at which such testimony or exhibit is authenticated. Whenever in the circumstances of a particular case it is deemed necessary or desirable, the hearing commissioners or the presiding member may direct that testimony to be given upon direct examination shall be reduced to exhibit form or to the form of prepared written testimony. (Authorized by K.S.A. 1976 Supp. 25-4119a, 46-253; effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977.)

**19-7-9. Briefs.** Upon application to the presiding member, any party may as a matter of right file briefs. The presiding member shall set limits on the length of briefs, fix the time for the filing and service of briefs and set the order in which such briefs shall be filed, giving due regard to the nature of the proceeding, the magnitude of the record, and the complexity or importance of the issues involved. Briefs shall contain, where applicable: (1) a concise statement of the case; (2) an abstract of the evidence relied upon by the participant filing, preferably assembled by subjects, with references to the pages of the record or exhibits where the evidence appears; and (3) proposed findings and conclusions and, if desired, a proposed form of order together with the reasons and authorities therefore, separately stated. (Authorized by K.S.A. 1976 Supp. 25-4119a, 46-253;

effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977.)

**19-7-10. Recording and transcript.** (a) Recording of proceedings. Public hearings and executive sessions shall be recorded as directed by the commission. Such record shall be the sole official record. Such recording and any transcripts from the hearing shall include a verbatim report of the hearings and nothing shall be omitted from them except as directed by the presiding member or hearing commissioners or by the commission.

(b) Copies. Petitioners or parties may obtain copies of the public portion of the record. They may obtain the portion of the record from an executive session as the commission may specifically allow to a petitioner or party depending on his or her participation in the executive session or consistent with K.A.R. 19-5-5, and consistent with the confidentiality requirement of relevant law. Copies of the records may be obtained from the official reporter upon payment of the reporter's fees or as allowed by the commission upon payment of the appropriate fee. (Authorized by K.S.A. 1979 Supp. 25-4119a, 46-253; effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980.)

**19-7-11. Settlement.** The petitioners or parties may stipulate for settlement of the case and the commission may issue a report and order on such stipulation. (Authorized by K.S.A. 1979 Supp. 25-4119a, 46-253; effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980.)

**19-7-12. Proposals by the petitioners or parties.** There may be presented by petitioners or by each of the parties, as allowed or directed by the presiding member, proposed findings and conclusions. The reasons, and proposed forms of orders may be presented also. (Authorized by K.S.A. 1979 Supp. 25-4119a, 46-253; effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980.)

**19-7-13. Recommended report.** If a hearing is held by a committee of the commission, the presiding member thereof shall present, as soon as practicable, a recommended report adopted by a majority of the committee to the commission as a whole. Copies of the recommended report shall be served on the petitioners or parties. Dissenting recommendations may also

be filed by a hearing commissioner. (Authorized by K.S.A. 1979 Supp. 25-4119a, 46-253; effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980.)

**19-7-14. Appeal, briefs and oral argument to entire commission.** Any petitioner or party may make exceptions to the recommended report and by motion request an opportunity to present an oral argument to the entire commission. An oral argument motion shall be filed within ten (10) days from the date of service of the recommended report. If an oral argument is ordered, it shall be limited, unless otherwise specified, to matters properly raised by the motion and in any accompanying briefs. (Authorized by K.S.A. 1979 Supp. 25-4119a, 46-253; effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980.)

**19-7-15. Commission report and order.** Upon receipt of a recommended report or when the commission as a whole hears a complaint, the commission shall as soon as practicable issue its report. All reports and orders of the commission shall, subject to application for rehearing, be final. A report of the commission shall set forth the findings and conclusions of the commission and may include an opinion containing the reasons for said decision. The report may be accompanied by a notice of the right to apply for a rehearing. (Authorized by K.S.A. 1976 Supp. 25-4119a, 46-253; effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977.)

**19-7-16. Rehearing.** (a) General. Any petitioner or party alleging any error in the original proceedings or report shall request a rehearing. An application for rehearing shall be filed with the commission at its office within ten (10) days after service of a commission report. Such application shall be made by motion, stating specifically the grounds relied on. A copy of such application shall be served on all petitioners or parties in conformity with the service provisions of these rules, by the petitioner or party making such application. An application for rehearing shall contain:

- (1) the docket number of the case for which such application is being made;
- (2) the name of the petitioner or party making such application; and
- (3) such application shall state concisely and specifically the alleged errors for which a rehear-



ing is sought. If vacation, reversal or modification is sought by reason of matters which have arisen since the hearing and decision, the matters relied upon shall be identified in the application.

(b) Granting an application for rehearing. If the commission grants an application for rehearing, it shall so notify the petitioners or parties in writing. The date an application for rehearing is granted shall be the date on which the commission makes such decision. The rehearing shall follow the same procedural rules as a hearing, except to the extent otherwise directed by the commission or a presiding member.

(c) Effect of failure to allege specific error. Failure to request a rehearing on a specific allegation of error and provide reasons therefore shall constitute a waiver of all objection to any matters not specifically alleged as error. (Authorized by K.S.A. 1979 Supp. 25-4119a, 46-253; effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980.)

#### **Article 8.—ACTION SUBSEQUENT TO FINAL REPORT**

**19-8-1. Commission action.** (a) Dismissal. The commission shall dismiss a complaint and all matters relative thereto if the final report concludes there has been no violation of relevant law.

(b) Report transmittal. If the final report concludes there has been a violation of relevant law, copies of the report shall be forthwith submitted to the attorney general and appropriate county or district attorney, and to the supreme court, legislature or governor as required by relevant law according to the particular violation found. (Authorized by K.S.A. 1976 Supp. 25-4119a, 46-253; effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977.)

**19-8-2. Information release to government attorneys.** Confidential portions of the formal record in any proceeding, or any other information relative thereto, may by resolution of the commission specifically authorizing such release upon a finding such information is material to a matter pending before the attorney general or a county or district attorney, be released to said government attorneys. Application by such government attorneys to the commission for information release shall provide such information to the commission as is necessary for the commission to make the required finding. (Authorized by K.S.A. 1976 Supp. 25-4119a, 46-253; effective, E-76-52,

Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977.)

#### **Article 9.—MAINTENANCE OF PUBLIC RECORDS**

##### **19-9-1. Maintenance of public records.**

Each statement, report, affidavit, or other document which is required to be filed or is filed pursuant to K.A.R. 19-1 to K.A.R. 19-63 shall be kept and maintained by the office with which it is filed for a period of five (5) years from the date of filing. At the termination of the five (5) year period, any office wishing to destroy such documents shall notify the commission in writing of its intent to destroy such documents sixty (60) days prior to destruction. Unless otherwise provided by law, the commission may at any time prior to the termination of the notice period serve upon the office written notice that it shall maintain such records or portions therefore for such additional periods of time as the commission may determine is reasonable and necessary. (Authorized by K.S.A. 1976 Supp. 25-4119a, 46-253, 75-4303a; effective, E-77-7, March 19, 1976; effective Feb. 15, 1977.)

#### **Articles 10 to 19.—RESERVED**

#### **Article 20.—CAMPAIGN FINANCE ACT; GENERAL PROVISIONS**

**19-20-1.** (Authorized by K.S.A. 1979 Supp. 25-4119a; effective, E-76-56, Nov. 26, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; revoked May 1, 1980.)

**19-20-2. Definitions.** (a) The term “act,” unless the context requires otherwise, means K.S.A. 25-4142 et seq., including related amendments, supplemental legislation, and rules and regulations.

(b) “In-kind contribution” means a contribution of goods, services, or anything of value to a candidate, candidate committee, party committee, or any representative of them without charge or provision of such items at a charge to the recipient of less than the fair market value. “In-kind contribution” also means the use of any goods, services, or anything of value, or the spending of any money, for the benefit of any candidate, candidate committee, party committee, or political committee when the use or expenditure is made in cooperation with or with the consent of the candidate, committee, or representative of them.

(c) "Session" means both the regular and special sessions of the legislature. Regular session includes the time period commencing January 2 through final adjournment. Special session includes the time of commencement through final adjournment. (Authorized by K.S.A. 1991 Supp. 25-4119a; implementing K.S.A. 1991 Supp. 25-4143 and K.S.A. 1991 Supp. 25-4153a; effective, E-76-56, Nov. 26, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980; amended May 1, 1982; amended May 1, 1983; amended June 22, 1992.)

**19-20-3. Construction.** K.A.R. 19-20 to 19-30, inclusive, shall be liberally construed to accomplish the purposes of the act including the administration of fair and open elections. (Authorized by K.S.A. 1976 Supp. 25-4119a; effective, E-76-56, Nov. 26, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977.)

**19-20-4. Disclosures required on political advertising.** (a) Each disclosure required pursuant to K.S.A. 25-4156(b)(1)(A)-(C) and amendments thereto shall appear at the bottom of the advertisement or item and shall contain both the name of the chairperson, treasurer, or other responsible party and the name of the organization that the responsible party represents. With regard to the required disclosure, the following requirements shall apply:

(1) The name of the organization alone shall not be sufficient.

(2) If a political committee is responsible for the advertisement or item, the chairperson's name and the name of the political committee shall be disclosed.

(3) If a candidate or candidate committee is responsible for the advertisement or item, the treasurer's name and the name of the candidate or candidate committee shall be disclosed.

(4) If an organization that has a chairperson, other than a political committee, candidate, or candidate committee, is responsible for the advertisement or item, the chairperson's name and the name of the responsible organization shall be disclosed.

(5) If an organization that does not have a chairperson, other than a political committee, candidate, or candidate committee, is responsible for the advertisement or item, then the responsible individual listed shall be one of the following:

(A) The individual who is the primary funding source;

(B) if no individual is the primary funding source, the individual who controlled the decision to place the advertisement or produce the item; or

(C) if no one individual controlled the decision, the individual who controlled the funds.

(6) If an individual is responsible for the item, that individual's name shall be disclosed, unless the advertisement or item is a brochure, flier, or other political fact sheet and the individual makes expenditures in an aggregate amount of less than \$2,500 within a calendar year.

(7) The following disclosures shall be considered adequate when placed at the bottom of the advertisement or item:

(A) Paid for by the (name of candidate) campaign, (name of treasurer), treasurer;

(B) paid for by (name of candidate) for (title of office sought), (name of treasurer), treasurer;

(C) sponsored by the committee to elect (name of candidate), (name of chairperson), chairperson;

(D) paid for by (name of political action committee) political action committee, (name of treasurer), treasurer; and

(E) advertisement: paid for by committee to elect (name of candidate), (name of chairperson), chairperson.

(b) The phrase "brochure, flier or other political fact sheet," as used in K.S.A. 25-4156 and amendments thereto, shall include the following if the items "expressly advocate the nomination, election or defeat of a clearly identified candidate," as defined by K.S.A. 25-4143 and amendments thereto:

(1) Business cards;

(2) door hangers;

(3) windshield fliers;

(4) postcards;

(5) fund-raiser invitations;

(6) traditional brochures, fliers, or mailers; and

(7) web sites, e-mails, or other types of internet communications.

(c) The phrase "brochure, flier or other political fact sheet" shall not include any of the following:

(1) Yard signs;

(2) billboards;

(3) bumper stickers;

(4) envelopes;

(5) t-shirts;

(6) pens, pencils, rulers, magnets, or other trinket items; or

(7) fund-raiser invitations, business cards, brochures, or fliers if these items do not expressly

advocate the nomination, election or defeat of a clearly identified candidate.

(d) A postal or internet address that contains words that expressly advocate the nomination, election or defeat of a clearly identified candidate shall be considered political advertising if that address is published. Published matter containing an address that constitutes political advertising shall require a disclosure pursuant to K.S.A. 25-4156 and amendments thereto. (Authorized by K.S.A. 2007 Supp. 25-4119a; implementing K.S.A. 2007 Supp. 25-4156; effective Jan. 23, 2004; amended July 18, 2008.)

**19-20-5. Use of public funds, machinery, equipment, and supplies.** Postal or internet addresses that “expressly advocate the nomination, election or defeat of a clearly identified candidate,” as defined by K.S.A. 25-4143 and amendments thereto, shall not be included in a communication generated or distributed using public funds, machinery, equipment, or supplies. (Authorized by K.S.A. 2007 Supp. 25-4119a; implementing K.S.A. 25-4169a; effective July 18, 2008.)

## Article 21.—CANDIDATES AND COMMITTEES

**19-21-1. Candidate appointment of treasurer or committee.** (a) Whenever any of the tests set forth in 1981 Kansas Session Laws, Chapter 171, Sec. 2(a) are met, an individual becomes a candidate on the date that test is met.

(1) For the purpose of this section, an appointment does not take place until an agency relationship is completed and the individual to be appointed takes significant action based on that relationship which is intended to influence the nomination or election to state office of the individual considering seeking that office.

(2) An announcement is not a public announcement unless it is intended to inform the general public that the individual is seeking nomination or election to state office.

(3) An individual makes a public announcement, or makes an expenditure or accepts a contribution if the individual does so directly, or directly or indirectly authorizes another to do so on the individual's behalf or directly or indirectly ratifies the action of another.

(b) A candidate may serve as his or her own treasurer. Only one treasurer or one candidate committee may exist at the same time. A prior

treasurer or committee and a new treasurer or committee for a different candidacy may exist at the same time so long as the prior treasurer or committee does not serve in any capacity of an ongoing nature to advance the later candidacy and only to the extent necessary to close its affairs. (See K.A.R. 19-21-2 for the requirements if a candidate committee is appointed.) (Authorized by K.S.A. 25-4119a; implementing K.S.A. 25-4143(a) and 25-4144; effective, E-76-56, Nov. 26, 1975; effective, E-77-20, May 1, 1976; amended, E-77-47, Sep. 30, 1976; effective Feb. 15, 1977; amended May 1, 1980; amended May 1, 1982.)

**19-21-2. Candidate committees.** (a) General. A candidate appoints a committee either directly or if he or she directly or indirectly authorizes a group of individuals to receive contributions or make expenditures on the candidate's behalf, or ratifies the actions of such group. A candidate shall have no more than one candidate committee at any one time.

(b) Appointment of officers and structure. The candidate shall appoint one chairperson and one treasurer of the candidate committee for the purposes of the act. A candidate or candidate committee member may serve as both chairperson and treasurer for a candidate committee. The committee may consist of such other officers as the candidate may desire including co-chairpersons. A candidate committee may be divided into regional and local subdivisions as long as such subdivisions are under the direct control of the chairperson and treasurer and such subdivisions otherwise comply with the terms of the act. (Authorized by K.S.A. 1979 Supp. 25-4103, 25-4119a; effective, E-76-56, Nov. 26, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended, E-79-24, Sep. 21, 1978; amended May 1, 1979; amended May 1, 1980.)

**19-21-3. Political committees.** (a) General. The following factors shall be considered in determining whether a combination of two or more persons, or a person other than an individual, constitutes a political committee:

- (1) The intent of the person or persons;
- (2) the amount of time devoted to the support or opposition of one or more candidates for state office;
- (3) the amount of time devoted to the support or opposition of any other political committee or party committee;
- (4) the amount of contributions, as defined by

the act, made to any candidate, candidate committee, party committee or political committee;

(5) the amount of expenditures, as defined by the act, made on behalf of any candidate, candidate committee, party committee or political committee; and

(6) the importance to any candidate, candidate committee, party committee or political committee of the activities in which the person or persons engage.

(b) Structure and filing statement of organization. Each political committee which anticipates that it will receive contributions or make expenditures shall appoint one chairperson and one treasurer for the purposes of the act. A political committee member may serve as both chairperson and treasurer. A political committee may appoint such other officers as it desires, including co-chairpersons.

(c) Payroll deduction plan exception. Any person or persons who receive political contributions under a program similar to a payroll deduction plan shall be presumed not to be a political committee if the program administered by the person or persons meets all of the following tests:

(1) the decision to make any contribution by any individual employee is strictly voluntary;

(2) the employee alone determines to whom the employee's contribution will be distributed;

(3) any contribution made by the employee is made and transferred in the employee's name only; and

(4) the recipient candidate or committee is not made aware by the employer or the employer's agents that the contribution was made as a part of any such program.

(d) Affiliated or connected organizations.

(1) An organization shall be considered to be affiliated or connected with a reporting political committee if it is:

(A) an organization or group which founded or maintains the reporting committee with a major purpose of influencing the nomination or election of a candidate or candidates to state office;

(B) an organization or group which has as a major purpose providing support to a reporting committee or committees;

(C) an organization or group whose membership is generally composed of the same individuals as the reporting committee where the reporting committee advances the political goals of the organization either directly or indirectly on behalf of the organization; or

(D) an organization or group, whether or not a reporting committee, which is substantially controlled, directly or indirectly, by a reporting committee or committees or the controlling persons thereof. In addition, any organization or group controlling an affiliated or connected organization shall likewise be considered an affiliated or connected organization of the group or organization which it controls.

(2) Exceptions. If a state-wide union or professional or trade association is considered to be an affiliated or connected organization of a particular political committee under any of the above tests, local units of such unions or associations shall be presumed not to be affiliated or connected organizations of the political committee so long as the state-wide entity is reported as such. (Authorized by K.S.A. 25-4119a as amended by L. 1986, Ch. 143, Sec. 1; implementing K.S.A. 25-4143 and K.S.A. 1985 Supp. 25-4145; effective, E-76-56, Nov. 26, 1975; effective, E-77-20, May 1, 1976; amended, E-77-47, Sept. 30, 1976; effective Feb. 15, 1977; amended, E-79-24, Sept. 21, 1978; amended May 1, 1979; amended May 1, 1980; amended May 1, 1987.)

**19-21-4. Party committees.** (a) Party committees do not include committees authorized and regulated by K.S.A. 25-3803 or 25-3806. These committees may, however, in appropriate circumstances constitute political committees under K.A.R. 19-21-3.

(b) A party committee shall be subject to the same requirements as a political committee as set out in K.A.R. 19-21-3(b) and (d). However, county central committees shall not be deemed, for the purpose of this section, to be affiliated or connected organizations of their respective state committees. (Authorized by K.S.A. 25-4119a; implementing K.S.A. 25-4143, 25-4145; effective, E-76-56, Nov. 26, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980; amended May 1, 1982; amended May 1, 1983.)

**19-21-5. Other reporting persons.** Every person, other than a candidate or a candidate committee, party committee, or political committee, who makes independent contributions or expenditures other than by contribution to a candidate or a candidate committee, party committee, or political committee, in an aggregate amount of one hundred dollars (\$100) or more within a calendar year shall make verified statements contain-



ing the information required by K.A.R. 19-29-2 on forms prescribed and provided by the commission, and file them in the office of the secretary of state so that each statement is in that office on the day specified in 1981 Kansas Session Laws, Chapter 171, Sec. 7. Reports made under this section need not be cumulative. For the purposes of this section, "independent contributions and expenditures" means contributions or expenditures made without cooperation or consent of the candidate or committee intended to be benefited and which expressly advocate the election or defeat of a clearly identified candidate. (Authorized by K.S.A. 25-4119a; implementing K.S.A. 25-4150; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980; amended May 1, 1982.)

**19-21-6. Out-of-state committees, and persons.** Any combination of three or more individuals or a person other than an individual, not domiciled in this state, which is required to file a verified statement pursuant to K.S.A. 25-4172 as amended by L. 1986, Ch. 144, § 1 shall include the names and addresses of contributors who are residents of Kansas, non-residents with jobs in Kansas, and those making contributions earmarked for use in Kansas. Other contributions may be disclosed in the aggregate. (Authorized by K.S.A. 25-4119a as amended by L. 1986, Ch. 143, Sec. 1; implementing K.S.A. 25-4172 as amended by L. 1986, Ch. 144, Sec. 1; effective, E-77-29, June 3, 1976; effective Feb. 15, 1977; amended May 1, 1980; amended May 1, 1982; amended May 1, 1987.)

#### **Article 22.—CONTRIBUTIONS AND OTHER RECEIPTS**

**19-22-1. Contributions.** (a) General. A transfer of goods and services, or the forgiving of a debt, or the rendering of a discount, does not constitute a contribution if the transaction is made in the ordinary course of business or complies with common trade practices and does not have as its purpose the influencing of the nomination or election of any individual to state office. In addition, the carryover of funds or inventory by a candidate, candidate committee, party committee or political committee from one election period to another or the transfer thereof to a bona fide successor committee or candidacy does not constitute a contribution.

(b) Transfer of funds. Except as provided in

subsection (a), the transfer of funds between any two (2) or more candidates, candidate committees, party committees or political committees constitutes a contribution made to the recipient. (See K.A.R. 19-23-1(b) for the treatment of such transactions by the donor.)

(c) Candidate contributions. The transfer of a candidate's personal funds to the candidate's treasurer for use by the treasurer in the candidate's campaign constitutes a contribution made by the candidate.

(d) In-kind contributions. An in-kind contribution constitutes a contribution. Those transactions which are excluded from the definition of in-kind contribution are likewise excluded from the definition of contribution. (See K.A.R. 19-24 for the definition of in-kind contribution.) (Authorized by K.S.A. 1979 Supp. 25-4102(d), 25-4119a; effective, E-76-56, Nov. 26, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980.)

**19-22-2. Other receipts.** Rebates and refunds given in the ordinary course of business constitute other receipts, as do the transfer of funds from an existing committee to its successor. (Authorized by K.S.A. 1979 Supp. 25-4119a; effective, E-76-56, Nov. 26, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980.)

#### **Article 23.—EXPENDITURES AND OTHER DISBURSEMENTS**

**19-23-1. Expenditures.** (a) General. The carryover of funds or inventory by a candidate, candidate committee, party committee or political committee from one election period to another or the transfer thereof to a bona fide successor's committee or candidacy does not constitute an expenditure. In addition, expenditure does not include costs which are directly related to any communication by an incumbent elected state officer with one or more of the incumbent's constituents unless the primary purpose of such direct costs is to influence the nomination or election of the candidate. In addition, those indirect costs which facilitate such communications and are insubstantial in value per person are within the exclusion unless the primary purpose of such indirect costs is to influence the nomination or election of the candidate. Costs which relate to communications occurring forty-five (45) days after adjournment *sine die* of the legislature in an election year when the

elected state officer is seeking office are presumed to be for the primary purpose of influencing the candidate's election. Costs related to a response by an incumbent official to inquiries from the public concerning any official matter before the incumbent do not fall within this presumption.

(b) Transfer of funds. Except as provided in subsection (a), the transfer of funds between any two (2) or more candidates, candidate committees, party committees or political committees constitutes an expenditure made by the transferor, provided however that a transfer from one (1) candidate or candidate committee to another and different candidate or candidate committee, or political committee or party committee, does not constitute an expenditure by the transferor when the funds thus transferred are not used for the transferor's benefit (see K.A.R. 19-23-2 concerning the treatment of the transfer as an other disbursement).

(c) Filing fees. The payment of a candidate's filing fee constitutes an expenditure.

(d) Meeting the requirements of the act. Costs associated with attending informational meetings of the commission or otherwise obtaining information from the commission do not constitute expenditures. In addition, costs associated with defending actions brought pursuant to the act do not constitute expenditures. Costs associated with employing accountants, attorneys, or other persons for advice concerning the requirements of the act or to keep accounts and records do, however, constitute expenditures.

(e) Treasurer's payment of certain costs. The payment by the treasurer of a candidate or a candidate committee of costs incurred for the personal meals, lodging and travel by personal automobile of the candidate or the candidate's spouse does not constitute an expenditure.

(f) In-kind contributions. An in-kind contribution constitutes an expenditure. Those transactions which are excluded from the definitions of in-kind contributions are likewise excluded from the definition of expenditure. (See K.A.R. 19-24 for the definition of in-kind contribution.) (Authorized by K.S.A. 1979 Supp. 25-4102(f), 25-4119a; effective, E-76-56, Nov. 26, 1975; effective, E-77-20, May 1, 1976; amended, E-77-47, Sep. 30, 1976; effective Feb. 15, 1977; amended May 1, 1980.)

**19-23-2. Other disbursements.** Other disbursements include but are not limited to:

(a) the repayment of loans by a treasurer in his or her official capacity as such;

(b) the disbursement of illegal contributions;

(c) the payment of recoverable security deposits; and

(d) transfers to other treasurers or to a successor committee which do not constitute expenditures. (Authorized by K.S.A. 1979 Supp. 25-4108, 25-4119a; effective, E-76-56, Nov. 26, 1976; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980.)

## Article 24.—IN-KIND CONTRIBUTIONS

**19-24-1. Value of an in-kind contribution.** The value of an in-kind contribution shall equal the fair market value of the item or service if it had been purchased, sold, or leased in the ordinary course of business. When a charge is made for an item or service which is less than the fair market value, then the difference between the fair market value and the charge shall be the value of the in-kind contribution. The donor of the item or service shall place the value on the in-kind contribution when given. The treasurer may question the value set by the donor if it appears unreasonable and shall revalue the in-kind contribution to a reasonable value. (Authorized by K.S.A. 25-4119a; implementing K.S.A. 25-4143; effective, E-76-56, Nov. 26, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980; amended May 1, 1982; amended May 1, 1983.)

**19-24-2. Candidate in-kind contributions.** The transfer of anything of value by the candidate to his or her campaign without charge or at a charge of less than the fair market value constitutes an in-kind contribution. That payment by a candidate or the candidate's spouse for personal meals, lodging and travel by personal automobile of the candidate or the candidate's spouse while campaigning does not constitute an in-kind contribution. (Authorized by K.S.A. 1979 Supp. 25-4119a; effective, E-76-56, Nov. 26, 1975; effective, E-77-20, May 1, 1976; amended, E-77-47, Sep. 30, 1976; effective Feb. 15, 1977; amended May 1, 1980.)

**19-24-3. Endorsements, voter registration drives and related matters.** The costs associated with any news story, commentary, or editorial distributed in the ordinary course of

business by a broadcasting station, newspaper or other periodical publication does not constitute an in-kind contribution. In addition, costs associated with nonpartisan activities designed to encourage individuals to register to vote or to vote do not constitute in-kind contributions. Finally, the costs associated with internal organizational communications of business, labor, professional or other associations which merely endorse a candidate do not constitute in-kind contributions. (Authorized by K.S.A. 1976 Supp. 25-4119a; effective, E-76-56, Nov. 26, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977.)

**19-24-4. Volunteer service.** The value of volunteer services provided without compensation does not constitute an in-kind contribution. Costs to a volunteer which are related to the rendering of volunteer services which do not exceed a fair market value of fifty dollars (\$50) during an allocable election period are also excluded from the definition of in-kind contribution. Once the fifty dollar (\$50) limit is reached in any allocable period, the excess during that period constitutes an in-kind contribution. For the purpose of K.A.R. 19-24 a candidate shall be considered a volunteer. (Authorized by K.S.A. 1979 Supp. 25-4102(d), 25-4119a; effective, E-76-56, Nov. 26, 1975; effective, E-77-20, May 1, 1976; amended, E-77-47, Sept. 30, 1976; effective Feb. 15, 1977; amended May 1, 1980.)

**19-24-5. Campaign worker expenditures.** When a campaign worker is reimbursed for payments the worker has made during the same allocable election period in which the payment is made, the campaign worker has not made an in-kind contribution. Payments which are not reimbursed in the same allocable election period in which they are made constitute in-kind contributions. (Authorized by K.S.A. 1979 Supp. 25-4119a; effective, E-76-56, Nov. 25, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980.)

**19-24-6. General overhead and other costs.** (a) Party committees. Expenditures by a party committee for its own general overhead, salaries and supplies do not constitute reportable in-kind contributions to the candidates of the party. Other expenditures by a party committee which are intended to accrue to the equal benefit of its candidates do not constitute reportable in-kind contributions. In addition, costs associated with

the provisions of campaign materials and general advice by a party committee to its candidates do not constitute reportable in-kind contributions to the recipient except to the extent the materials are prepared for a specific candidate or the advice is of a specialized nature and the value exceeds fifty dollars (\$50) in any allocable election period.

(b) Affiliated or connected organizations of political committees. Expenditures by an affiliated organization of a political committee, to the extent the expenditures exceed fifty dollars (\$50) during an allocable period for the use of office space to a political committee constitute reportable in-kind contributions to the committee. Costs associated with the provision of supervisory personnel, clerical or secretarial assistance constitute reportable in-kind contributions to the extent the costs exceed a value of fifty dollars (\$50) during an allocable election period. Where the supervisory personnel, clerks or secretaries volunteer their time and are not reimbursed no in-kind contribution exists. In addition, the provision of office supplies and telephone services by an affiliated organization to its political committee constitute reportable in-kind contributions but only to the extent the value exceeds fifty dollars (\$50) during an allocable election period. (Authorized by K.S.A. 1980 Supp. 25-4119a; implementing K.S.A. 1980 Supp. 25-4102(d),(f); effective, E-77-29, June 3, 1976; amended, E-77-47, Sept. 30, 1976; effective Feb. 15, 1977; amended May 1, 1981.)

## Article 25.—TESTIMONIAL EVENTS AND OTHER POLITICAL EVENTS

**19-25-1. Testimonial events.** When a testimonial event is held for the benefit of more than one candidate, except when an individual contributor dedicates a contribution to a particular candidate, the value of each contribution or in-kind contribution shall be attributed to each candidate in the same ratio as that by which the candidates share the profits from the event, or, if there are no profits, in the same ratio by which the candidates share the expenses of the event. An event is held to raise funds if it is intended to do so, or if not intended to do so, if the effect is nonetheless attained. (Authorized by K.S.A. 25-4119a; implementing K.S.A. 25-4143; effective, E-76-56, Nov. 26, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980; amended May 1, 1982; amended May 1, 1983.)

**19-25-2. Other political events.** (a) Pur-

chase of tickets, goods or services. The purchase of tickets, goods or services at political events or fund raisers which do not constitute testimonial events constitute contributions when the price substantially exceeds the value of the goods or services received, provided however, that a bulk purchase of tickets, goods or services constitutes a contribution. A bulk purchase is made whenever a person purchases tickets in excess of that reasonably necessary for the person's personal use and that of his or her immediate family. The value to be attributed to a contribution which occurs when the price paid substantially exceeds the value of the goods or services is the difference between the price and the fair market value of the goods or services. A treasurer may, if the treasurer so desires, consider the price the value of the contribution. The value attributed to a contribution when a bulk purchase is made is the full value of the bulk purchase.

(b) Donation of goods. The value of goods donated to political events and fund raisers which do not constitute testimonial events are treated in the same manner as donations to testimonial events. (See K.A.R.19-25-1(c).) (Authorized by K.S.A. 1979 Supp. 25-4102(d)(1), 25-4102(l), 25-4119a; effective, E-76-56, Nov. 26, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980.)

#### **Article 26.—RECEIVING CONTRIBUTIONS AND MAKING EXPENDITURES**

**19-26-1. Treasurer's duty.** All contributions or other receipts received and all expenditures or other disbursements made by or on behalf of a candidate or committee shall be received or made by or through the treasurer. For a contribution or other receipt to be received or an expenditure or other disbursement to be made by or through a treasurer, it must be received or made by a person who is the agent of the treasurer either by prior approval or by ratification. In either case the treasurer is required to keep records of the transaction as if received or made by the treasurer. (Authorized by K.S.A. 1979 Supp. 25-4105, 25-4119a; effective, E-76-56, Nov. 26, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980.)

**19-26-2. Solicitation of contributions.** Solicitors of contributions on behalf of a particular candidate or committee shall be deemed a part of

the candidate or committee and therefore will not be required to report the contributions on their own behalf so long as the following tests are met:

(a) Prior approval both to permit solicitation and the procedure to be used has been received by the candidate's or committee's treasurer;

(b) The treasurer has final discretion over the activities of the solicitors;

(c) Contributions are made payable to the candidate or committee and are turned over to the treasurer pursuant to 1981 Kansas Session Laws, Chapter 171, Sec. 6;

(d) All expenditures incurred in soliciting the contributions are reported to the treasurer in the same manner as provided for contributions by 1981 Kansas Session Laws, Chapter 171, Sec. 6; and

(e) The treasurer keeps and preserves all records of these contributions and expenditures as a part of the treasurer's accounts and records and reports when required by the act. (Authorized by K.S.A. 25-4119a; implementing K.S.A. 25-4147 and 25-4150; effective, E-76-56, Nov. 26, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980; amended May 1, 1982.)

**19-26-3.** (Authorized by K.S.A. 1979 Supp. 25-4119a; effective, E-77-20, May 1, 1976; amended, E-77-47, Sep. 30, 1976; effective Feb. 15, 1977; revoked May 1, 1980.)

#### **Article 27.—ACCOUNTS AND RECORDS**

**19-27-1. Duty of treasurer.** Each treasurer shall keep accounts and records of all contributions and other receipts received and all expenditures and other disbursements made by or on behalf of the treasurer's candidate or committee, as well as all other transactions relating thereto. A treasurer keeps such accounts and records if he or she does so directly or if another person does so under the treasurer's continuing supervision, authority and review. Whenever an individual vacates the position of treasurer, the individual shall substantiate the accuracy of his or her accounts and records to the succeeding treasurer on forms prescribed by the commission. The term "accuracy" shall mean true, complete and correct. The statement of substantiation shall become a part of the succeeding treasurer's records. (Authorized by K.S.A. 1980 Supp. 25-4106, 25-4119a; implementing K.S.A. 1980 Supp. 25-4105, 25-4106; effective, E-76-56, Nov. 26, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980.)



tive, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980; amended May 1, 1981.)

**19-27-2. Contributions and other receipts.** (a) Each treasurer shall maintain a complete record of all contributions as follows:

(1) A detailed account of all contributions, including tickets or admissions to testimonials or other political events, that includes the following:

(A) The full name and address of the person making the contribution;

(B) the occupation of each individual contributor who contributes more than \$150 or, if the individual contributor is not employed, the occupation of the contributor's spouse;

(C) a description of the contribution as cash, check, in-kind, or loan, including the rate of interest, term, guarantor, and endorser;

(D) the date received;

(E) the amount; and

(F) the cumulative amount given by the contributor that is allocable to the primary or general election period;

(2) the date, the amount, and a description of each contribution of \$10 or less for which the name and address of the contributor is not known, subject to the limitations of K.S.A. 25-4154 and amendments thereto; and

(3) the aggregate total of all contributions received as the proceeds from the sale of political materials and the date of each sale and a description of the materials sold.

(b) Each treasurer shall keep an account of all other receipts, including the following:

(1) The full name and mailing address of a person making the payment;

(2) a description of the other receipt indicating whether the receipt is a rebate, refund, or other miscellaneous receipt;

(3) the date received; and

(4) the amount of the receipt.

(c) Each treasurer shall perform one of the following:

(1) Photocopy each contribution or other receipt in the form of a check, money order, or similar instrument in the amount of \$50 or more and keep all deposit slips with the photocopies of the checks to which the deposit slips relate; or

(2) at the request of the commission, arrange with a depository or other person to provide the commission with these photocopies at the treasurer's expense. In addition, when necessary, each

treasurer shall arrange with the treasurer's depository to permit the commission access to the depository's records of any contributions or other receipt in the form of a check, money order, or similar instrument at the treasurer's expense.

(d) Cash and in-kind contributions and other cash and in-kind receipts in an amount of \$10 or more shall be accounted for by written receipt, the original of which shall be kept by the treasurer. These receipts shall include the full name and address of the person making the contribution or payment, the date, and the amount. Each receipt shall be signed by the treasurer or the treasurer's agent. If the contribution is an in-kind contribution, a complete description shall be attached to the receipt.

(e) All treasurers or committees that use online merchant account providers or maintain a payroll deduction, dues, checkoff, or comparable system for political contributions shall keep sufficient supporting documentation to fully substantiate each contribution or transfer to the committee. (Authorized by K.S.A. 2007 Supp. 25-4119a; implementing K.S.A. 25-4147, K.S.A. 2007 Supp. 25-4148, and K.S.A. 25-4148a; effective, E-76-56, Nov. 26, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended, E-77-29, June 3, 1976; amended, E-77-47, Sept. 30, 1976; amended, E-79-24, Sept. 21, 1978; amended May 1, 1979; amended May 1, 1980; amended May 1, 1981; amended May 1, 1982; amended June 22, 1992; amended July 18, 2008.)

**19-27-3. Expenditures and other disbursements.** (a) Each treasurer shall keep a detailed account of all expenditures, including:

(1) The full name and address of a person to whom the expenditure is made;

(2) The purpose of the expenditure;

(3) The date of the expenditure; and

(4) The amount of the expenditure.

(b) Each treasurer shall keep a detailed account of all other disbursements, including:

(1) The full name and address of the person to whom the disbursement is made;

(2) The purpose of the disbursement;

(3) The date of the disbursement; and

(4) The amount of the disbursement.

(c) Each treasurer shall obtain and keep a receipted bill from the person to whom an expenditure or other disbursement is made, which bill shall contain the information required in subsections (a) and (b) of this section. In lieu of a re-

cepted bill the treasurer may keep the cancelled check(s) showing payment(s) and the bill, invoice, contract or other documentation of the transaction containing the information required in subsections (a) and (b) of this section.

(d) Each treasurer shall keep all cancelled checks, void checks, cancelled deposit slips, and bank statements in the order in which they are received.

(e) When expenditures are made by payments to advertising agencies, public relations firms, and political consultants for disbursement to vendors, each treasurer shall obtain and keep the documentation required by subsection (c) of this section. The documentation shall in turn contain the information required in subsection (a) of this section for each vendor to which disbursements are made by the advertising agency, public relations firm, or political consultant. (Authorized by K.S.A. 25-4119a; implementing K.S.A. 25-4147; effective, E-76-56, Nov. 26, 1975; effective, E-77-20, May 1, 1976; amended, E-77-47, Sep. 30, 1976; effective Feb. 15, 1977; amended May 1, 1980; amended May 1, 1982.)

**19-27-4. Maintenance, preservation and inspection.** (a) Maintenance. All accounts shall be kept reasonably current at all times and shall be completely current at the close of each reporting period.

(b) Preservation. All accounts required to be made and kept by this article (and all other accounts a treasurer makes in the course of his or her official duties) shall be preserved for a period of six (6) years for an office with a four year term or four (4) years for an office with a two (2) year term and for party and political committees six (6) years from the closing date of the reporting period for which the account is kept by the treasurer. An individual who vacates the position of treasurer by reason of removal or resignation shall substantiate the accuracy of his or her accounts and transfer them to the succeeding treasurer. Upon the dissolution of a committee or the position of a candidate's treasurer, the last treasurer of record is responsible for the preservation of the required accounts.

(c) Inspection. The commission may inspect a treasurer's accounts at any reasonable time and place by giving written notice of the need to do so. (Authorized by K.S.A. 1980 Supp. 25-4119a; implementing K.S.A. 1980 Supp. 25-4105, 25-4106; effective, E-76-56, Nov. 26, 1975; effective,

E-77-20, May 1, 1976; amended, E-77-47, Sep. 30, 1976; effective Feb. 15, 1977; amended May 1, 1980; amended May 1, 1981.)

#### **Article 28.—REPORTING PERIODS AND ELECTION PERIODS**

**19-28-1. Nomination by convention or caucus.** For the treasurer of any candidate seeking nomination by convention or caucus or the treasurer of such candidate's committee or for any treasurer of a party committee or political committee of which the primary purpose is supporting or opposing the nomination of any such candidate, the date of such convention or caucus shall be considered the date of the primary election for the purposes of relevant law. (Authorized by K.S.A. 1979 Supp. 25-4109, 25-4119a; effective, E-76-56, Nov. 26, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980.)

**19-28-2. Allocation of contributions and expenditures.** (a) All contributions and other receipts received and expenditures and other disbursements made shall be allocated within each election period to the reporting period in which received or made. Contributions to or expenditures by a candidate seeking nomination by convention or caucus or by the candidate committee shall be allocated in the same manner as above except that the date of the convention or caucus shall be considered the primary election date.

(b) A contribution or other receipt made in cash, check, or similar instrument is received on the date it is physically in the hands of the candidate, treasurer, or the treasurer's agent, whichever occurs first.

(c) An expenditure or other disbursement is made on the date the actual payment is made or the expenditure contracted for, whichever occurs first.

(d) An in-kind contribution is received on the date the services or goods inure to the recipient's benefit. (Authorized by K.S.A. 25-4119a; implementing K.S.A. 25-4149; effective, E-76-56, Nov. 26, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980; amended May 1, 1982.)

#### **Article 29.—RECEIPTS AND EXPENDITURES REPORT**

**19-29-1.** (Authorized by K.S.A. 1979 Supp. 25-4119a; effective, E-76-56, Nov. 26, 1975; ef-

fective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended, E-79-24, Sep. 21, 1978; amended May 1, 1979; revoked May 1, 1980.)

**19-29-1a. Place and time of filing.** (a) Place of filing.

(1) Each political committee and each party committee whose primary purpose is the nomination or election of candidates to state office shall file reports required by K.S.A. 25-4148 in the office of the secretary of state.

(2) Each political committee and each party committee whose primary purpose is the nomination or election of candidates to local office shall file reports required by K.S.A. 25-4148 in the office of the county election officer.

(b) Time of filing.

(1) Each political committee and each party committee whose primary purpose is the nomination or election of candidates to state office or a local office where the election dates are August and November shall file the reports required by K.S.A. 25-4148 only on the dates required for those elections.

(2) Each political committee whose primary purpose is the nomination or election of candidates to local office with election dates in February, March, or April shall file the reports required by K.S.A. 25-4148 only on the dates required for those elections. (Authorized by K.S.A. 1992 Supp. 25-4119a; implementing K.S.A. 1992 Supp. 25-4148; effective Oct. 18, 1993.)

**19-29-2. Contents of receipts and expenditures report.** (a) General. Each receipts and expenditures report shall contain:

(1) the full name and address of the candidate, party committee, or political committee;

(2) in the case of candidates, the office sought, and in the case of committees, a designation as to type;

(3) the period covered by the report;

(4) a designation, when applicable, that the report is an amended or a termination report; and

(5) a declaration as to completeness and accuracy, signed by the treasurer.

(b) Summary section. Each report shall contain a summary section for the reporting period which shall include:

(1) cash on hand at the beginning of the period;

(2) total contributions and receipts, except in-kind contributions;

(3) total cash available during the period;

(4) total expenditures and other disbursements;

(5) cash on hand at the close of the period;

(6) total in-kind contributions; and

(7) the total of other obligations.

(c) Supporting schedules.

(1) General. Each report shall contain the supporting schedules required by this subsection. For the purpose of subsection (c):

(A) The term "date" means the month, day and year.

(B) The term "name" means the full name of the person indicated.

(C) The term "address" means the street address or rural route, the city, state and zip code.

Each accompanying schedule shall include the name of the candidate or committee on whose behalf the report is filed. When the name is used more than once, the same name shall appear throughout the schedule. Whenever additional sheets are necessary to list the information required by any supporting schedule, each page of that schedule shall contain a space, completed by the treasurer, to indicate the subtotal for that page.

(2) "Monetary contributions and receipts" schedule. Monetary contributions and receipts shall be listed on an accompanying schedule. This schedule shall include:

(A) A date column, which shall state the date when the contribution was received by the treasurer or the treasurer's authorized agent, whichever occurs first;

(B) a name and address column, which shall state the name and address for each contributor. This column shall also be used to show the name of the candidate or committee to whom funds are dedicated whenever a treasurer receives a contribution which is dedicated in whole or in part for use or transfer to another candidate or committee.

(C) An occupation of contributor column, which shall state the occupation of each individual contributor who contributes more than \$150, or if the individual contributor is not employed, the occupation of the contributor's spouse. If the contribution is from a political action committee, this column shall also be used to describe the political committee by including the name of the organization affiliated or connected with the committee or the trade, profession, or primary interest of the contributors.

(D) A description column, which shall state whether the contribution or receipt is in the form

of a loan, cash, check or other. If the contribution is a loan, the interest rate and the name and address of any guarantors or endorsers shall be noted in this column.

(E) A column which states the amount of the cash, check, loan or other receipt;

(F) A total amount space in which the aggregate amount of monetary contributions and other receipts received during the reporting period shall be shown; this amount shall be carried forward to the summary page.

(G) Itemized monetary contributions and receipts. Each monetary contribution or receipt over \$50 received during the reporting period shall be itemized. In addition, each contribution or receipt of more than \$10 received during the reporting period for which the name and address of the donor is unknown shall be disclosed on this schedule; and

(H) unitemized monetary contributions and receipts. The aggregate total of all contributions and receipts of \$50 or less received during the reporting period for which the name and address of the donor is known shall be reported as unitemized contributions or receipts. Receipts during the reporting period from the sale of political materials shall also be reported. The proceeds from the sale of tickets or admissions to testimonial events, except those required to be itemized, shall be reported on this schedule. Contributions of \$10 or less received during the election period for which the name and address of the donor is unknown shall be disclosed on this schedule.

(3) "In-kind contributions" schedule. All in-kind contributions shall be listed on this accompanying schedule. This schedule shall include:

(A) A date column, which shall state the date the in-kind contribution was received by the treasurer or the treasurer's authorized agent, whichever occurs first;

(B) a name, address and occupation of contributor column, which shall state the name and address of each in-kind contributor, as well as the occupation of each individual contributor who contributes more than \$150, or, if the individual contributor is unemployed, the occupation of the contributor's spouse;

(C) a description column, which shall briefly describe the goods or services provided. When a treasurer receives a contribution which is dedicated in whole or in part for use or transfer to another candidate or committee, the name of the candidate or committee to whom the goods or

services are dedicated shall be included in this column as well;

(D) a value of in-kind contributions column, which shall state the fair market value of the contribution;

(E) a total amount space in which the aggregate value of itemized and unitemized in-kind contributions shall be shown. This value shall be carried forward to the summary page.

(F) Itemized in-kind contributions. Each in-kind contribution having a value of more than \$50 received during the reporting period shall be itemized.

(G) Unitemized in-kind contributions. The aggregate total of in-kind contributions from any one contributor having a value of \$50 or less received during the reporting period; disclosed.

(4) An "Expenditures and disbursements" schedule. All expenditures and disbursements to any person shall be listed on this accompanying schedule. This schedule shall include:

(A) a date column that shall state the date or dates the payee was actually paid during the reporting period;

(B) a name column that shall state the name of the person to whom the payment was made;

(C) a purpose of expenditure column that shall reflect the nature of the expenditure; when an expenditure is made by payment to an advertising agency, public relations firm, or political consultants for disbursement to vendors, the report shall show in detail the name of each vendor and the information required on this schedule with regard to each expenditure. Whenever a treasurer makes a disbursement which constitutes a contribution to another candidate or committee and when it is made up in whole or in part of dedicated funds, the treasurer shall disclose the names and addresses of those persons who dedicated the funds. The treasurer shall, in transferring any of these contributions, report the same information to the recipient;

(D) an amount column that shall reflect the aggregate amount of payment to the payee on the date of the entry;

(E) a total amount space in which the total amount of itemized and unitemized expenditures and disbursements during the reporting period shall be shown; this amount shall be carried forward to the summary page;

(F) itemized expenditures and disbursements; each expenditure or disbursement over \$50 made during the reporting period shall be itemized; and



(G) unitemized expenditures and disbursements; the aggregate total of all expenditures and disbursements of \$50 or less made during the reporting period shall be disclosed.

(5) "Other transactions" schedule. All other reportable financial transactions made during the reporting period shall be disclosed with reasonable specificity.

(A) Accounts and loans payable. All accounts and loans outstanding at the close of a reporting period shall be disclosed. This disclosure shall include:

- (i) the date the debts or loans were contracted;
- (ii) the person to whom the debt or loan is owned;
- (iii) a description of the goods or services subject to debt or a description of the principal amount and terms of the loan; and
- (iv) the amount outstanding at the close of the reporting period.

(B) Loans receivable. All loans receivable outstanding at the close of the reporting period shall be disclosed. This disclosure shall include:

- (i) the date the loan agreement was completed;
- (ii) the person to whom the funds were loaned;
- (iii) the principal amount and terms of the loan; and
- (iv) the amount outstanding at the close of the reporting period. (Authorized by K.S.A. 1991 Supp. 25-4119a; implementing K.S.A. 1991 Supp. 25-4148 and 25-4148a; effective, E-76-56, Nov. 26, 1975; effective, E-77-29, June 3, 1976; effective Feb. 15, 1977; amended May 1, 1980; amended May 1, 1982; amended May 1, 1983; amended May 1, 1987; amended June 22, 1992.)

### 19-29-3. Material errors and omissions.

Giving due regard to the number of errors or omissions, the dollar value involved, the percentage of error, the magnitude of the contributions and expenditures of the particular candidate or committee, and the importance of presentation of a true public record, and professional accounting judgment, the following shall be considered material errors and omissions:

(a) General.

- (1) Failure to use forms prescribed by the commission.
- (2) Incomplete identification of the candidate or committee.
- (3) Failure of treasurer to sign report.
- (4) Illegibility.
- (b) Summary page.

(1) Failure to complete or incorrect or omitted totals.

(c) Accompanying schedules.

- (1) Dates inadequate, incorrect or omitted.
- (2) Full name inadequate, incorrect or omitted.
- (3) Address inadequate, incorrect or omitted.
- (4) Description or purpose inadequate or omitted.
- (5) Amount incorrect or omitted.
- (6) Failure to report transaction on proper report.
- (7) Transaction not reported or reported on wrong schedule.
- (8) Transaction reported on correct schedule, but improperly.
- (9) Total(s) for schedule incorrect or omitted.
- (10) Contribution cumulative amount column incorrect or not completed.

(11) Detail provided for expenditures to advertising agencies, public relations firms, or political consultants inadequate or omitted.

(12) Disposition of loans or accounts payable from previous report(s) inadequate or omitted. (Authorized by K.S.A. 1979 Supp. 25-4119a; effective, E-76-56, Nov. 26, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980.)

### 19-29-4. Termination reports and reports of debts and obligations.

(a) Before any committee may be dissolved or the position of any treasurer terminated, a termination report shall be filed with the secretary of state, local election officer or both. A termination report may not be filed until the disbursement of all residual funds and the discharge of all remaining debts and obligations. These and all other transactions from the date of the last report shall be disclosed on the termination report. Any report required by K.S.A. 25-4148 may serve as a termination report if the requirements described in this subsection are met.

(b) The position of treasurer may not be terminated until a termination report is filed. In addition, the position of treasurer shall not be deemed terminated to the extent of any report provided for by K.S.A. 25-4148(d) or (e) is required or to the extent necessary for the maintenance and preservation of records.

(c) A treasurer shall continue to file a report each January 10 as required by K.S.A. 25-4148 so long as any residual funds or outstanding debts or obligations remain. (Authorized by K.S.A. 1991

Supp. 25-4119a; implementing K.S.A. 25-4155 and K.S.A. 1991 Supp. 25-4157; effective, E-79-24, Sept. 21, 1978; effective May 1, 1979; amended May 1, 1980; amended May 1, 1981; amended May 1, 1982; amended June 22, 1992.)

**19-29-5. Computer generated campaign reports.** Reports prepared on computer will be acceptable, provided that:

- (1) Each computer generated page contains all information required in K.S.A. 25-4148;
- (2) Print-outs are legible, clear black on white paper;
- (3) Each page is on 8½" × 11" paper;
- (4) Each page is numbered;
- (5) Each report includes the commission's prescribed front page summary sheet; and
- (6) The type is no smaller than pica (10 characters per inch). (Authorized by K.S.A. 1991 Supp. 24-4119a; implementing K.S.A. 25-4151; effective June 22, 1992.)

#### **Article 30.—CONTRIBUTION LIMITATIONS**

**19-30-1 and 19-30-2.** (Authorized by K.S.A. 1979 Supp. 25-4119a; effective, E-76-56, Nov. 26, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; revoked May 1, 1980.)

**19-30-3.** (Authorized by K.S.A. 1980 Supp. 25-4119a; implementing K.S.A. 1980 Supp. 25-4112; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980; revoked May 1, 1981.)

**19-30-4. Change in office sought.** When during an election period a candidate decides to seek state or local office other than that originally anticipated or sought in the preceding election, all contributions received during the election period shall be attributed to the individual's contributions limits for the office finally sought. In the situation where an individual is a candidate with a deficit from a prior election year and during the primary election period decides to seek state office with a lower contribution limitation, the candidate may accept contributions up to the higher contribution limitation until the earlier debts are paid off, but shall not accept any further contributions from any person which exceed the lower contribution limitation for the office finally sought. (Authorized by K.S.A. 1991 Supp. 25-4119a; implementing K.S.A. 25-4153; effective, E-77-20, May 1, 1976; amended, E-77-47, Sept. 30, 1976; effective Feb.

15, 1977; amended May 1, 1980; amended May 1, 1982; amended June 22, 1992.)

#### **Articles 31 to 39.—RESERVED**

#### **Article 40.—STATE CONFLICT OF INTEREST PROVISIONS**

**19-40-1.** (Authorized by K.S.A. 1979 Supp. 46-253; effective, E-77-7, March 19, 1976; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; revoked May 1, 1980.)

**19-40-2. Construction.** K.A.R. 19-40 to K.A.R. 19-42, inclusive, shall be liberally construed to accomplish the purposes of the act. (Authorized by K.S.A. 1979 Supp. 46-253; effective, E-77-7, March 19, 1976; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980.)

**19-40-3.** (Authorized by K.S.A. 1979 Supp. 46-253; effective, E-77-7, March 19, 1976; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; revoked May 1, 1980.)

**19-40-3a. Definitions.** Incorporated by reference are the definitions of "express" and "apparent" contained in K.S.A. 46-215 et seq. (a) "Bona fide personal or business entertaining or gifts" means entertainment or gifts provided to state officers or employees or their spouses which are based solely on a business or personal relationship totally unrelated to the state officer or employee's duties as such. The following factors, among others, will be taken into consideration in determining whether a specific entertainment or gift falls within this definition:

- (1) The intent of the parties;
- (2) The length of time a business or personal relationship has existed;
- (3) The topics of discussion;
- (4) The setting;
- (5) The persons attending;
- (6) Whether the person providing the entertainment or gift is reimbursed by an organization by which they are employed; and
- (7) Whether the person providing the entertainment or gift, or his or her principal, deducts or could deduct the expenditures as a business expense.

(b) "Gift" means the transfer of money or anything of value unless legal consideration of a reasonably equal or greater value is received in return.

(1) The value of a gift shall be the fair market value or a reasonable estimate thereof. Where a transfer is made for less than reasonable consideration, the amount by which the value of the transfer exceeds the value of the consideration shall be deemed a gift.

(2) Exceptions. For the purposes of K.S.A. 1991 Supp. 46-237, except when a particular course of official action is to be followed as a condition thereon, "Gift" does not include:

(A) goods or services which are provided to a state agency which does not license, inspect nor regulate the giver and are used to benefit the state as a whole;

(B) goods, services or discounts which are provided to a state agency to be used for advertising and promoting the products of the state;

(C) goods, services or discounts which are provided by federal or state agencies;

(D) a rebate, discount or promotional item available to any individual or governmental agency;

(E) the provision of hospitality in the form of recreation, food and beverage, except when provided to a state officer or employee which licenses, inspects or regulates the giver;

(F) any bona fide personal or business gift or entertainment; or

(G) any contribution reported in compliance with the campaign finance act.

(c) Hospitality. "Hospitality in the form of recreation, food and beverage" means the provision of recreation and consumption of food and beverage in the company of the donor or the donor's authorized agent. The provision of recreation, food and beverage in any other manner constitutes a gift.

(d) Honoraria. For the purposes of K.S.A. 1991 Supp. 46-237(f) "honoraria" means any amount paid to a state officer or employee for giving a speech when the primary reason the state officer or employee was invited to give the speech was his or her position in state government. In determining the primary reason, factors to be considered include:

(1) The importance of position in state government of the state officer or employee. Thus, if a person is in a major policy making position, it is likely that the acceptance of honoraria is prohibited;

(2) Whether the grantor of the honoraria has a special interest concerning the duties of the state officer or employee; and

(3) Whether the speech deals with scientific or technical data within the area of expertise of the state officer or employee's knowledge, as opposed to whether the speech deals with aspects of the duties of the state officer or employee. (Authorized by K.S.A. 1991 Supp. 46-253; implementing K.S.A. 1991 Supp. 46-237; effective May 1, 1984; amended June 22, 1992.)

**19-40-4. Nepotism.** (a) No state officer or employee shall advocate, participate in or cause the employment, appointment, promotion, transfer or discipline of a member of the state officer's or employee's household or a family member.

(b)(1) As used in this regulation, "family member" means:

(A) a spouse, parent, child, or sibling;

(B) a sibling, as denoted by the prefix "half";

(C) a parent, child, or sibling, as denoted by the prefix "step";

(D) a foster child;

(E) a uncle, aunt, nephew, or niece;

(F) any parent or child of a preceding or subsequent generation, as denoted by the prefix of "grand" or "great"; or

(G) parent, child or sibling related by marriage as denoted by the suffix of "in-law."

(2) "Household member" means a person having legal residence in or living in the state officer's or employee's place of residence.

(c) The provisions of this regulation shall not be construed to apply to appointments of members of the governor's staff. (Authorized by K.S.A. 1991 Supp. 46-253; implementing K.S.A. 1991 Supp. 46-246(a), as amended by 1992 SB 533, Sec. 1; effective Oct. 19, 1992.)

**19-40-5. Contract.** The term "contract" as defined by K.S.A. 46-231 shall exclude agreements to pay membership dues to a person or business when the primary occupation of the person or business is to provide publications and educational material to the agency or promote state interests. (Authorized by K.S.A. 1991 Supp. 46-253; implementing K.S.A. 1991 Supp. 46-233; effective June 22, 1992.)

## Article 41.—STATEMENT OF SUBSTANTIAL INTERESTS

**19-41-1. Definitions.** For the purposes of this article, the following words and phrases are defined below. (a) "Blind trust" means a trust established by a state officer or state employee or

the individual's spouse for the purpose of divestiture of all control and knowledge of assets.

(b) "Combination of businesses" means any two or more businesses owned or controlled directly by the same interests.

(c) "Description of interests" means the type of ownership interest held, including common stock, preferred stock, stock option and limited partnership.

(d) "Equitable interest" means an actual beneficial ownership, though legal title may not be shown on public, partnership or corporate records.

(e) "General counsel" means any attorney for a state agency to whom the agency turns for legal advice concerning the general operation of the agency. This definition shall include any private attorney hired on a contract basis to give legal advice, as well as any in-house counsel for the state agency who is the chief legal counsel for the agency. The definition shall not include any attorney assigned to an agency by the attorney general from the attorney general's staff to serve as the the agency's primary legal advisor, unless the attorney is budgeted for by a separate agency or division, has permanent offices within the agency or division, or unless the individual falls under any other provision of K.S.A. 1991 Supp. 46-247. The definition shall not apply to any private attorney who is retained solely to handle specific litigation for an agency. Any in-house counsel other than the head of the legal division of a specific agency shall not be required to file unless the individual falls under any other provision of K.S.A. 1991 Supp. 46-247.

(f) "Members of state councils, commissions and boards" means members of state authorities, compacts and committees or similar state agencies who receive compensation from the state when such member is engaged in performing a function or duty for such council, commission, board, authority, compact or committee or similar state agency. Excluded from this definition are entities of the judicial branch or any member of a board, council or commission who is appointed by the supreme court or who is elected or appointed to exercise duties pertaining to functions of the judicial branch, when such person is engaged in performing a function or duty for the judicial branch.

(g) "Other business interest" means any endeavor which produces income, including appraisals, consulting, authorships, inventing or the sale of goods and services. It is unnecessary, for the

purposes of this definition, that the interest have a formal business name or formal business structure.

(h) "Ownership interest" means a legal or equitable interest in any business or combination of businesses.

(i) "Trust" means a trust in which any state officer or employee or the individual's spouse has a present or future interest which exceeds five percent of the value of the trust or exceeds five thousand dollars, whichever is less, but does not include blind trusts.

(j) "Type of business" means the nature of the business activity in which the entity engages, including construction, retailing and manufacturing. (Authorized by K.S.A. 1991 Supp. 46-253; implementing K.S.A. 1991 Supp. 46-229, 46-247; effective, E-77-7, March 19, 1976; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1983; amended May 1, 1984; amended June 22, 1992.)

**19-41-2.** (Authorized by K.S.A. 46-253; implementing K.S.A. 46-221 and 46-247; effective, E-77-7, March 19, 1976; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980; amended May 1, 1982; amended May 1, 1983; revoked May 1, 1984.)

**19-41-3. Interests disclosed.** Each statement which is filed pursuant to K.S.A. 1983 Supp. 46-248 shall disclose the following: (a) The statement shall include the name, complete address, and telephone number of the individual filing the statement. In addition, each statement shall disclose the elective office held by that individual; the office for which a candidate seeks election; the position of employment; the position to which the individual was appointed subject to senate confirmation; the state council, commission or board of which the individual is a member; or the agency to which the individual is a general counsel.

(b) Pursuant to K.S.A. 1983 Supp. 46-229(a), the name of the business and its address, the type of business, a description of the interest, and a description of how the interest is held between the individual and the individual's spouse shall be included in the statement. Disclosure of the number of shares or their value, in the case of a corporation, or the net worth, in the case of a proprietorship or partnership, shall not be required. The value or percentage of a business interest shall be determined as of the time of the required



filing. The value assigned to a holding shall be the fair market value.

For the purposes of this provision, certificates of deposit, bank savings or checking accounts, passbook accounts in a savings and loan, shares in a credit union, life insurance policies, annuities, notes, bonds, debentures and mortgages shall not constitute "legal or equitable interests." Therefore, disclosure of these interests shall not be required under this provision. Ownership of other stocks and shares, including traded and closely held stocks, as well as shares in mutual funds, shall constitute legal or equitable interest for the purpose of this section.

(c) Under K.S.A. 1983 Supp. 46-229(b), the receipt of interests, dividends and mineral royalties shall not constitute "compensation" as the term is defined; disclosure of those matters shall not be required under this provision. The disclosure required under K.S.A. 1983 Supp. 46-229(b) shall include the name and address of the business or combination of the businesses, the type of business and a description of whether the compensation was received by the individual, the individual's spouse, or both.

(d) For the purposes of K.S.A. 1983 Supp. 46-229(e), the phrase "client or customer" shall relate only to businesses or combinations of businesses. Disclosure of the amount of any fee shall not be required. In the case of a partnership, it is the partner's proportionate share of the business and hence of the fee which is significant, without regard to expenses of the partnership. The disclosure under this subsection shall include the name of the client or customer and the address.

(e) Holding the position of administrator or executor of an estate shall not be considered reportable under K.S.A. 1983 Supp. 46-229(d). The disclosure under this subsection shall include the name and address of the business and the position held. (Authorized by K.S.A. 46-253; implementing K.S.A. 1983 Supp. 46-248; effective, E-77-7, March 19, 1976; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980; amended May 1, 1982; amended May 1, 1983; amended May 1, 1984.)

**19-41-4. Material errors and omissions.** The following shall be considered material errors and omissions on any statement of substantial interests filed pursuant to this article:

(a) General. (1) Failure to use form prescribed by the commission.

(2) Incomplete identification of person filing.  
(3) Inadequate identification of office or employment.

(4) Failure to sign or date statement.

(5) Illegibility.

(b) Disclosure sections. (1) Substantial interest omitted.

(2) Name inadequate or omitted.

(3) Address inadequate or omitted.

(4) Description or type of business inadequate or omitted.

(5) Description of interest inadequate or omitted.

(6) Holder or receiver unidentified.

(7) Position held omitted.

(c) Other. Any other error or omission which leads to less than full disclosure as required by this article. (Authorized by K.S.A. 1976 Supp. 46-253; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977.)

**19-41-5.** (Authorized by K.S.A. 1980 Supp. 46-253; implementing K.S.A. 1980 Supp. 46-280; effective, E-79-24, Sep. 21, 1978; effective May 1, 1979; revoked May 1, 1981.)

## Article 42.—REPRESENTATION CASE DISCLOSURE STATEMENTS

**19-42-1. Definitions.** For the purposes of this article, the following words and phrases have the following meanings:

(a) For the purposes of K.S.A. 46-226, "representation case" shall not include participation in providing goods and services to the state, nor representation of any person before the judicial branch of state government.

(b) "Employed in a representation case" means the person will receive compensation from the case and actually communicates with the state agency or an employee of the agency concerning the representation case or personally appears before the state agency. (Authorized by K.S.A. 46-253; implementing K.S.A. 46-226; effective, E-77-7, March 19, 1976; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980; amended May 1, 1983.)

**19-42-2.** (Authorized by K.S.A. 46-233(b), 46-237, 46-253; effective, E-77-7, March 19, 1976; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980; revoked May 1, 1983.)

**19-42-3. Contents of statement.** (a) Each

representation case disclosure statement shall contain the name, complete address, and telephone number of the individual filing the statement. If the individual is a state officer or employee other than a legislator, the identification shall include the title or position of the person and the state agency by which the person is employed. If the individual is a present or former legislator, the statement shall disclose whether the individual is or was a member of the house of representatives or of the senate and whether the individual is currently a member thereof or is an individual whose term expired within the past year.

(b) Each statement which is filed pursuant to K.S.A. 46-239 shall include the name, complete address, and telephone number of the employee and the name, complete address, and telephone number of the state agency before which the appearance will be made. In addition, the statements shall include a brief description of the purpose of the employment including the objective or goal sought by the employer and the method of determining and computing the compensation for the employment.

(c) Each statement which is filed pursuant to K.S.A. 46-233(b) shall include the name, complete address, and telephone number of the agency contracted with. In addition, the statements shall include a brief description of the purpose of the contract and the method of determining and computing the individual's income from the contract.

(d) Signature. Each representation case disclosure statement shall be dated by the individual filing the statement. (Authorized by K.S.A. 46-253; implementing K.S.A. 46-239; effective, E-77-7, March 19, 1976; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980; amended May 1, 1983.)

#### **Articles 43 to 49.—RESERVED**

#### **Article 50.—LOCAL CONFLICT OF INTEREST PROVISIONS**

**19-50-1.** (Authorized by K.S.A. 75-4303a; effective, E-77-7, March 19, 1976; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; revoked May 1, 1980.)

**19-50-2.** (Authorized by K.S.A. 1976 Supp. 75-4303a; effective, E-77-7, March 19, 1976; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; revoked May 1, 1984.)

**19-50-3.** (Authorized by K.S.A. 75-4303a; implementing K.S.A. 75-4301; effective, E-77-7, March 19, 1976; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980; amended May 1, 1982; revoked May 1, 1984.)

#### **Article 51.—DISCLOSURE OF SUBSTANTIAL INTERESTS**

**19-51-1.** (Authorized by K.S.A. 75-4303a; implementing K.S.A. 1980 Supp. 75-4302; effective, E-77-7, March 19, 1976; effective, E-77-20, May 1, 1976; amended, E-77-47, Sept. 30, 1976; effective Feb. 15, 1977; amended May 1, 1980; amended May 1, 1982; revoked May 1, 1984.)

**19-51-2.** (Authorized by K.S.A. 75-4301, 75-4303a; effective, E-77-7, March 19, 1976; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980; revoked May 1, 1984.)

#### **Articles 52 to 59.—RESERVED**

#### **Article 60.—LOBBYING REGULATION PROVISIONS**

**19-60-1.** (Authorized by K.S.A. 1979 Supp. 46-253; effective, E-77-7, March 19, 1976; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; revoked May 1, 1980.)

**19-60-2. Construction.** K.A.R. 19-60 to K.A.R. 19-63, inclusive, shall be liberally construed to accomplish the purposes of the act including providing for the greatest disclosure of lobbying expenditures possible while not hindering citizen involvement in the political process. (Authorized by K.S.A. 1976 Supp. 46-253; effective, E-77-7, March 19, 1976; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977.)

**19-60-3. Definitions.** The following words and phrases shall have these meanings:

(a) "Employer" means any of the following:

(1) A person who employs another person to a considerable degree for the purpose of lobbying;

(2) a person who formally appoints a person as the primary representative of an organization or of other persons to lobby in person on state-owned or state-leased property; or

(3) a person on whose behalf a person otherwise registers or is required to register as a lobbyist. If a lobbyist has more than one employer, the provisions of articles 60, 61, 62, and 63 of these regulations that relate to employers shall ap-

ply independently to each of the lobbyist's employers.

(b) "Expenditure" means a payment or a contract to pay for any of the following:

(1) The provision of hospitality in the form of recreation, food, and beverage to any state officers or employees of the legislative branch, candidates for the legislature, or legislators-elect, or their spouses, except bona fide personal or business entertainment as defined in subsection (c) below;

(2) the provision of any entertainment, gift, honoraria, or payment to any state officers or employees of the legislative branch, candidates for the legislature, or legislators-elect, or their spouses, except bona fide personal or business gifts, entertainment, honoraria, or payments;

(3) the production and communication of lobbying information to any state officer or employee of the legislative branch, candidate for the legislature, or legislator-elect by any person other than an individual; or

(4) the production and dissemination of mass media communications, letter-writing campaigns, and similar transactions that explicitly promote or oppose a clearly identified legislative matter or regulation and that urge or request the recipient to communicate directly with state officers or employees of the legislative branch, candidates for the legislature, or legislators-elect regarding that matter.

A person shall be considered to have made an expenditure if the person does so directly or if another person does so on the person's behalf. In addition, in the case of membership organizations, associations, or similar entities, the entity shall be deemed to make an expenditure associated with membership events if the entity plays an integral role initiating, planning, or operating these membership events.

(5) The term "expenditure" shall not mean a payment or contract that meets any of the following conditions:

(A) Is made for the preparation of proposals, position papers, and similar documents;

(B) is made to employ another to lobby on one's behalf;

(C) is made for personal travel and subsistence of an individual engaged in lobbying;

(D) is reported in compliance with the campaign finance act;

(E) is made in association with any news story, commentary, or editorial distributed in the ordi-

nary course of business by a broadcasting station, newspaper, or other periodical publication; or

(F) is made for contributions to membership organizations, associations, or similar entities in which the funds are used to make expenditures attributable to the entity or its representatives.

(c) "Bona fide personal or business entertainment or gifts" means entertainment or gifts provided to state officers or employees of the legislative branch, candidates for the legislature, or legislators-elect, or their spouses, that are based solely on a business or personal relationship totally unrelated to the duties of the state officer or employee of the legislative branch, candidate for the legislature, or legislator-elect. The factors that shall be taken into consideration in determining whether a specific entertainment or gift falls within this definition include the following:

(1) The intent of the parties;

(2) the length of time a business or personal relationship has existed;

(3) the topics of discussion;

(4) the setting;

(5) the persons attending;

(6) the reimbursement of the person providing the entertainment or gift by an organization that engages in lobbying; and

(7) the deduction by the person providing the entertainment or gift, or that person's principal, of the expenditures as lobbying expenditures.

(d) (1) "Gift" means the transfer of money or anything of value without receiving legal consideration of a reasonably equal or greater value in return. The value of a gift shall be the fair market value or a reasonable estimate of it. If a transfer is made for less than reasonable consideration, the amount by which the value of the transfer exceeds the value of the consideration received shall be deemed a gift.

(2) The term "gift" shall not include any of the following:

(A) The provision of hospitality in the form of recreation with a value of less than \$100, food, or beverage;

(B) any bona fide personal or business gift or entertainment; or

(C) any contribution reported in compliance with the campaign finance act.

(e) "Hospitality in the form of recreation, food and beverage" means the provision of recreation to or consumption of food and beverage by a state officer or employee of the legislative branch, candidate for the legislature, or legislator-elect while

the state officer or employee of the legislative branch, candidate for the legislature, or legislator-elect is in the company of the donor or the donor's authorized agent.

(f) "Entertainment" means the provision of recreation, food, or beverage to a state officer or employee of the legislative branch, candidate for the legislature, or legislator-elect, when the state officer or employee of the legislative branch, candidate for the legislature, or legislator-elect is not in the company of the donor or the donor's authorized agent.

(g) Invitations. In order for an invitation to comply with K.S.A. 46-269(c)(2)(E)(i) or (c)(2)(E)(ii) and amendments thereto, an invitation shall be meaningful and issued in good faith. In determining whether an invitation is meaningful and issued in good faith, the factors that shall be considered include the following:

(1) Actual notice. The person extending the invitation shall provide notification in a manner that ensures that the majority of the invitees received actual notice. The manner in which the invitation is distributed or communicated to the invitees shall remain within the discretion of the invitor.

(2) Timeliness of notice. The invitees shall receive notice in a manner sufficiently timely to allow them a reasonable likelihood of attending the event. Considerations shall include the location of the event, the location of the invitees, the necessity of travel to the event, and the scheduling of other events generally attended by a significant portion of the invitees.

(3) Likelihood of attendance. There shall be a reasonable likelihood that the majority or a reasonable mix of the invitees will or reasonably could attend the event. An invitation to an event that is historically attended only by certain individuals and that carries no reasonable likelihood that the majority or a reasonable mix of the invitees will attend shall not be deemed to be an invitation pursuant to K.S.A. 46-269(c)(2)(E)(i) or (c)(2)(E)(ii) and amendments thereto. (Authorized by K.S.A. 46-253; implementing K.S.A. 46-237 and 46-271; effective, E-77-7, March 19, 1976; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980; amended June 22, 1992; amended Jan. 23, 2004.)

## Article 61.—LOBBYING

**19-61-1. Legislative matters.** (a) General. Promoting or opposing in any manner action or

nonaction by the legislature on any legislative matter constitutes lobbying.

Legislative matters include any bills, resolutions, nominations, or other issues or proposals pending before the legislature or any committee, subcommittee, or council thereof. An issue or proposal is pending before any such body if it is being directly considered by such body, if it has been communicated to such body or a member thereof even if not directly considered by it, or if it is an issue subject to continuing review by any such body.

(1) Any communication which is intended to advocate action or nonaction by the legislature on a legislative matter, including communications with other persons with the intent that such persons communicate with legislators in regard thereto, constitutes lobbying.

(2) The provision of entertainment, recreation or gifts to any state officer or employee involved in action or nonaction by the legislature on any legislative matter, except those provided as bona fide personal or business entertainment, recreation or gifts, constitutes lobbying.

The fact that a particular activity constitutes "lobbying" does not necessarily mean that an individual must register as a lobbyist. See K.A.R. 19-62 on the issue of registration.

(b) Exceptions. The communication of factual material which is not intended to promote or oppose action or nonaction on a legislative matter and which is not accompanied by active advocacy does not constitute lobbying. (Authorized by K.S.A. 1991 Supp. 46-253; implementing K.S.A. 1991 Supp. 46-225; effective, E-77-7, March 19, 1976; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980; amended June 22, 1992.)

## **19-61-2. Agency rules and regulations.**

(a) General. Promoting or opposing in any manner the adoption or nonadoption of any rule and regulation by any state agency constitutes lobbying.

"Rules and regulations" means such rules and regulations as are required by law to be filed with the secretary of state and does not include those adopted by the judicial branch or any court.

(1) Any communication which is intended to advocate action or nonaction by any state agency on the adoption or nonadoption of any rule and regulation, including communications with other persons with the intent that such other person



communicate with agency personnel in regard thereto, constitutes lobbying.

(2) The provision of entertainment, recreation or gifts, except those provided as bona fide personal or business entertainment, recreation or gifts, to any state officer or employee when the state officer or employee is involved in the adoption or nonadoption of rules and regulations and when provided in a situation where it can reasonably be attributed to contemplated or completed rules and regulations constitutes lobbying.

The fact that a particular activity constitutes "lobbying" does not necessarily mean that an individual must register as a lobbyist. See K.A.R. 19-62 on the issue of registration.

(b) Exceptions. The communication of factual material which is not intended to promote or oppose the adoption or nonadoption of rules and regulations and which is unaccompanied by active advocacy does not constitute lobbying. In addition, the preparation of proposed or recommended rules and regulations or the monitoring of the adoption process does not constitute lobbying. (Authorized by K.S.A. 1991 Supp. 46-253; implementing K.S.A. 1991 Supp. 46-225; effective, E-77-7, March 19, 1976; effective, E-77-29, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980; amended June 22, 1992.)

**19-61-3.** (Authorized by K.S.A. 1976 Supp. 46-253; effective, E-77-7, March 19, 1976; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; revoked June 22, 1992.)

## **Article 62.—LOBBYIST REGISTRATION**

**19-62-1. Who must register.** (a) Employed lobbyists. Each person whose employment is, to a considerable degree, for the purpose of lobbying shall register as a lobbyist. A person is employed if the person receives compensation for or in direct relation to lobbying regardless of the technical legal definition of the relationship between the principal and the lobbyist. An executive of an organization who as part of the executive's duties only incidentally lobbies shall not be required to register under this subsection. However, where a person is employed to a considerable degree for the purpose of lobbying, it is irrelevant that the lobbying employment is not a substantial amount of the person's overall business. In determining whether an individual is employed to a considerable degree to lobby, that portion of the

employment which relates to preparation for lobbying shall be taken into consideration.

(b) Appointed lobbyists. Any person formally appointed as the primary representative of an organization or of another person to lobby on state-owned or leased property shall register as a lobbyist regardless of whether the person receives compensation for lobbying. Formal appointment as a primary representative may be indicated by election to a specific office or designation, including a specific post where the members of the organization or appointing person recognize such election or designation to include the right or duty to lobby as its primary representative on state-owned or leased property. Generally, where an organization or other person has an employed lobbyist, members lobbying on behalf of the organization shall not be deemed the primary representative of the organization or other person for the purposes of this registration provision. Where an appointment is made in conjunction with an employment status as set out in subsection (a) of this section, the provisions of that subsection shall control as to whether the employed person must register as a lobbyist.

(c) Persons making lobbying expenditures. Any person who makes "expenditures" for lobbying as defined in K.A.R. 19-60-3(c), in an aggregate amount of \$100 or more in any calendar year shall register as a lobbyist.

(d) Exceptions to the rules governing who must register.

(1) Those persons covered by K.S.A. 1991 Supp. 46-222(b) shall not be required to register as lobbyists.

(2) When an individual accepts a limited number of bona fide invitations from a state agency or subdivision thereof to appear before it for the purpose of providing information to such agency, the individual shall not be required to register as a lobbyist under subsections (a) and (b) of this section solely on account of such appearances. However, subsection (c) of this regulation applies to such situations. (Authorized by K.S.A. 1991 Supp. 46-253; implementing K.S.A. 1991 Supp. 46-265; effective, E-77-7, March 19, 1976; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980; amended June 22, 1992.)

**19-62-2. When and where to register.** Every person required to register as a lobbyist shall register with the secretary of state on a form prescribed and provided by the commission. The

registration shall be filed prior to lobbying in any calendar year. Whenever any new lobbying position is accepted by a registered lobbyist, the lobbyist shall file an additional registration in the same manner as the original. (Authorized by K.S.A. 1991 Supp. 46-253; implementing K.S.A. 1991 Supp. 46-265; effective, E-77-7, March 19, 1976; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended June 22, 1992.)

#### **Article 63.—LOBBYIST REPORTING PROVISIONS**

**19-63-1.** (Authorized by K.S.A. 1979 Supp. 46-253, 46-268, 46-269; effective, E-77-7, March 19, 1976; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980; revoked May 1, 1984.)

**19-63-2. When to report.** (a) Reporting periods. Each lobbyist shall report all expenditures allocable to that period by the 10th day of the month a report is due.

(b) Allocation of expenditures. Each expenditure shall be allocated to the reporting period in which the debt is incurred.

(c) Entertainment, gifts, honoraria and payments. Entertainment, gifts, honoraria and payments shall be allocated to the reporting period in which accepted by the state officer or employee. When entertainment, a gift, honoraria or payment is composed of separate transfers deferred over more than one reporting period, the total value thereof shall be allocated to the reporting period in which the state officer or employee accepts the initial transfer. (Authorized by K.S.A. 1991 Supp. 46-253; implementing K.S.A. 1991 Supp. 46-268, 46-269; effective, E-77-7, March 19, 1976; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980; amended May 1, 1984; amended June 22, 1992.)

**19-63-3. What to report.** (a) Expenditures. When any lobbyist's total expenditures for the reporting period exceed \$100, the lobbyist shall report the aggregate amount of all individual expenditures of \$2 and over made by the lobbyist and by the lobbyist's employer, if the lobbyist is the lobbyist most directly connected. The individual expenditures shall be reported according to the following categories:

(1) expenditures for hospitality provided in the form of food and beverage;

(2) expenditures for entertainment, gifts, honoraria or payments to state officers and employees;

(3) expenditures for mass media communications;

(4) expenditures for recreation provided as hospitality;

(5) expenditures for communication for the purpose of influencing legislative or executive action; and

(6) other reportable expenditures.

A lobbyist shall be considered most directly connected with an expenditure if the lobbyist incurs the debt, regardless of how the actual payment is made. The name and address of the lobbyist's employer shall be listed for all reportable expenditures.

(b) Entertainment, gifts, honoraria and payments. Entertainment, gifts, honoraria and payments made by the lobbyist's employer shall be reported by the lobbyist if, by themselves or in combination with entertainment, gifts, honoraria or payments made by the lobbyist, the reporting threshold is exceeded and if the lobbyist is the lobbyist of the employer most directly connected therewith. A lobbyist shall be considered most directly connected with entertainment, a gift, honoraria or payment if the lobbyist reaches the agreement for its acceptance, regardless of how the underlying debt is paid. (Authorized by K.S.A. 1991 Supp. 46-253; implementing K.S.A. 1991 Supp. 46-269; effective, E-77-7, March 19, 1976; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980; amended May 1, 1984; amended June 22, 1992.)

**19-63-4. Material errors or omissions.** The following shall be considered material errors or omissions on any report required by this article:

(a) Failure to use the form prescribed by the commission;

(b) incomplete identification of the person filing;

(c) failure to show the correct period covered;

(d) failure to sign or date the statement;

(e) illegibility;

(f) inadequate or omitted address;

(g) inadequate or omitted description or purpose of statement;

(h) incorrect or omitted expenditures or no check mark in the box indicating \$100 or less was spent;

(i) failure to report any reportable expenditure;

(j) incomplete identification of the person or employer on whose behalf the report is filed; and

(k) any other error or omission which leads to less than full disclosure as required by this regulation. (Authorized by K.S.A. 1991 Supp. 46-253; implementing K.S.A. 1991 Supp. 46-280; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended June 22, 1992.)

**19-63-5.** (Authorized by K.S.A. 1979 Supp. 46-253; effective, E-79-24, Sep. 21, 1978; effective May 1, 1979; revoked May 1, 1980.)

**19-63-6. Lobbyist's records.** Records in support of every report or statement filed shall be maintained and preserved by the lobbyist for five years from the date of filing the report or statement and may be inspected by and under conditions determined by the commission. At a minimum, each lobbyist shall maintain the following records: (a) A detailed account of all lobbying expenditures, including the following:

- (1) The full name and address of each person to whom the payment is made;
- (2) the purpose of the expenditure;
- (3) the date of the expenditure, including both the date of contracting and the date of payment; and
- (4) the amount of the expenditure;

(b) receipts and invoices to substantiate all expenditures and reimbursements;

(c) all bills, statements, contracts, or other documentation for services relating to reportable lobbying activities;

(d) the canceled check or copy supplied from a financial institution or other instrument by which payment for reportable lobbying activities was made;

(e) a chart of accounts, if applicable;

(f) a general ledger;

(g) the following documentation for all bank and credit card accounts held or used in connection with lobbying activities, including any personal accounts used in connection with lobbying:

(1) Account statements;

(2) deposit slips; and

(3) canceled checks or copies supplied from a financial institution;

(h) lists of persons accepting gifts that shall be reported pursuant to K.S.A. 46-269 and amendments thereto;

(i) lists of persons consuming meals or attending entertainment or recreational events that shall be reported pursuant to K.S.A. 46-269 and amendments thereto; and

(j) contracts or agreements for lobbying services between the lobbyist and the lobbyist's employer or appointing authority. (Authorized by K.S.A. 46-253; implementing K.S.A. 46-269; effective June 22, 1992; amended Jan. 23, 2004.)